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THE TRYAL

OF

Tho. Pilkington, Esq; } Sheriffs
Samuel Shute, Esq; }
Henry Cornish, Alderman.
Ford Lord *Grey* of *Werk*.
Sir *Tho. Player*, Knt. Chamberlain of *London*.
Slingsby Bethel, Esq;
Francis Jenks.

John Deagle.
Richard Freeman.
Richard Goodenough.
Robert Key.
John Wickham.
Samuel Swinock.
John Jekyll, Sen.

FOR THE

RIOT

AT

GUILD-HALL,

On *MIDSOMMER-DAY*, 1682.

BEING THE

Day for Election of SHERIFFS for the Year ensuing.

LONDON,

Printed for *Thomas Dring* at the *Harrow* at the Corner of *Chancery-Lane* end in *Fleetstreet*, 1683.

425

May the 11. 1683.

I do Appoint *Thomas Dring* to Print this Tryal, and that no other Perſon preſume to Print the ſame.

Edm. Saunders.

942.06
P64t

On Tuesday *the Eighth Day of* May, *at the Sessions of* Nisi Prius, *at the* Guild-Hall *of the City of* London, *held there for the County of the said City, before the Honourable Sir* Edmond Saunders *Knight, Chief Justice of his Majestie's Court of* King's-Bench; *an Information was brought at the King's Suit, against* Thomas Pilkington *Sheriff*, Samuel Shute *Sheriff*, Henry Cornish *Alderm.* Ford Lord Grey *of* Werk, *Sir* Thomas Player *Kt.* Slingsby Bethel *Esq*; Francis Jenks, John Deagle, Richard Freeman, Richard Goodenough, Robert Key, John Wickham, Samuel Swinock, John Jekyll *Senior*, &c.

The Court being sate, the *Tryal* proceeded.

CRYER,

YOU *Good Men of* Nisi Prius *summoned to appear here this Day between our Soveraign Lord the King, and* Thomas Pilkington, *and others, Defendants: Answer to your Names, and save your Issues.*

The Jury appeared.

Mr. *Sommers*, MY Lord, I am to Challenge the Array.

Mr. *Thomson*, My Lord, I desire this Challenge may be read.

The Challenge *read in* French.

L. C. J. Gentlemen, I am sorry you should have so bad an Opinion of me, as to be so little a Lawyer not to know this is but a Trifle, and nothing in't. Pray, Gentlemen don't put these things upon me.

Mr. Thomson, I desire it may be read my Lord.

L. C. J. You would not have done this before another Judge: You would not have done it if Sir *Matthew Hale* had been here.

Mr. Thomson, My Lord, I believe if there had been nothing in it, it would not have been sign'd.

Mr. Att. Gen. Very few but Mr. *Thomson* would urge it.

Mr. Thomson, I don't know whether you think so, or not, Mr. *Attorney*; but I have a great deal to offer, if you please to Answer it. We offer our *Challenge* in Point of Law.

L. C. J. There is no Law in it.

Mr.

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Mr. Thomſon, We deſire it may be read in *Engliſh*.

L. C. J. Why? Do you think I don't underſtand it; this is only to tickle the People.

The Challenge *read by the Clark* accordingly.

Mr. Serj. Jefferies, Here's a Tale of a Tub indeed.

L. C. J. Ay, it is nothing elſe, and I wonder Lawyers would put ſuch a thing upon me.

Mr. Thomſon, My Lord, we deſire this *Challenge* may be allowed.

L. C. J. No indeed won't I, there is no colour for it; and I am apt to think there are not many Lawyers in *England* would have put ſuch a thing upon me: Becauſe I am willing to hear any thing, and where there is any colour of Law, I am not willing to do amiſs: Therefore you think I am ſo very weak, without you think I was always ſo, and therefore may be ſo at this time. For, pray now conſider, if ſo be the King's Counſel ſhould come and plead this *Challenge*, what is the Conſequence of it? I thought you would have ſaid, that the *Sheriffs* had been a kin to the King, but you have made it worſe. You do come with a long Tale here of the whole Merits of the Cauſe, and more than yet doth appear; and by this you would have the *Challenge* to be allowed: In ſuch a Caſe a man may come and tell a Tale of the Merits of the Cauſe, and then it muſt be tryed by the *Challenge*. If the Sheriffs do return an Inqueſt for the King, and the Sheriffs do hold of the King a Fee-farm, or have a Penſion or an Annuity from the King, the Book doth ſay, that in ſome Caſes it is a *Challenge*; for though they cannot be challenged as being favourable for the King, yet for thoſe reaſons they may be challenged. But what is here? Here you tell a long Proceſs concerning a Difference between the Mayor and the Sheriffs, and all this matter is wrapt up altogether; and if all this were true, it is no *Challenge* at all

Mr. Thomſon, We ſhall ſpeak with all ſubmiſſion to your Judgment, my Lord.—Good *Mr. Attorney*, give me leave.

Mr. Att. Gen. I move for you.

Mr. Thomſon, If you pleaſe you may move for your ſelf, I don't need you to move for me. My Lord, with ſubmiſſion, the Information is not good: My Lord, it is an Information that doth ſet forth that my Lord Mayor had right of Adjourning the Poll, when an Election is to be for Sheriffs. My Lord, if he had not that Right, it can be no Riot according to this Information. My Lord, upon his Adjourning Mr. Sheriff *North* was Choſen: My Lord, if that Adjournment was not according to Law, Mr. Sheriff *North* never was Sheriff of *London*; Then, my Lord, here is the Caſe in this Queſtion of Title, for Mr. *North* doth come in queſtion, whether he be a legal Sheriff of *London*.

L. C. J. Prove to me now that of *Sheriff North*; Pray what Annuity, Penſion, or Fee-Farm hath he as Sheriff of *London*, whereby he is concerned.

Mr. Thomſon, My Lord, there are other Reaſons which I ſhall ſhew to you; and the firſt Reaſon, my Lord, in this Caſe, is this; it will appear the Election of Mr. *North* is intereſſed in this matter; and if Sir *John Moor* had not an Authority to Adjourn the Poll, Mr. *North* was not choſen duly Sheriff; now if there is a Sheriff choſen in Point of Right, it is a good *Challenge*.

L. C. J.

L. C. J. In point of Profit, and not all neither; for he that holds Land *in Capite* of the King, cannot be challenged for all that.

Mr. Thomſon. I think, my Lord, this is a common Caſe in our Books, That if in caſe a Sheriff be concerned in point of Title, this is a principal Challenge, becauſe that he is intereſted in that Title, he is no perſon by Law to return a Jury. I don't doubt but your Lordſhip will do that which is right, and according to Law. My Lord, I ſay, where a Sheriff is intereſted in point of Title, he is no perſon by Law to return a Jury, and this Queſtion will appear plainly upon this Information; for if in caſe this was not a lawful Adjournment by Sir *John Moor*, this is not a lawful Return.——Gentlemen, my Lord, I know, will hear me, if you have but patience; I always ſpeak and ſtand up for my Clients, as I ought to do. If you pleaſe to let me have your liberty, I have my Lords. If a Sheriff be concerned in point of Title, it is a principal Challenge, and the Sheriff ought not to return the Jury, but the *Coroner:* And my Lord much more in this Caſe, for that the very Title to the Office of Sheriff is here in Queſtion, and therefore he is no perſon fit to return this Jury, my Lord. We deſire your Lordſhips Opinion.

L. C. J. Mr. *Thomſon*, Methinks you have found out an invention, that the King ſhould never have power to try it even ſo long as the World ſtands Say you Sheriff *North* is not a right Sheriff, Who ſhould have been? Why ſay you *Dubois* and *Papillon*, or one, or both of them. Now the King he hath brought his Suit for a Riot———

Mr. Serj. Jefferies. And an Aſſault and Battery upon Sir *John Moor.*

Mr. Thomſon. That is a Fiction.

L. C. J. The King hath brought his Suit, and brought it to an Iſſue. Why now if ſo be this Challenge ſhould have any thing in it, then the King muſt have challenged *North*, and what muſt he have done then? Why, for *Papillon* and *Dubois*, they are not Sheriffs *in actu*, then ſay you the *Coroner.* Pray Mr. *Thomſon*, If ſo be the King had made the *Venire* either to *Papillon* or *Dubois*, or to the *Coroner*, Whether or no had not the Cauſe been found againſt the King, before one Word had been ſaid actually for Him? You ſay the Queſtion is, Whether he be a Sheriff or not? If the King had challenged him, and made the *Venire* to the *Coroner*, for God's ſake, Had not that made an end of the Queſtion?

Mr. Thomſon, No, my Lord, not at all.

L. C. J. No? Then I underſtand nothing.

Mr. Thomſon. My Lord, If the Sheriff appear to be concerned, it doth not determine the Cauſe.

L. C. J. But it does by your own Opening now. You ſay the Queſtion is, for which you do now challenge the Array, becauſe it is returned by Sir *Dudley North*, ſuppoſed to be one of the Sheriffs, and tell the whole Proceſs, how that in truth it is a Queſtion whether he be a Sheriff or not, and therefore ſay you, or you ſay nothing, that the *Venire* ſhould not go to *North.*

Mr. Thomſon. No, my Lord, I pray, good my Lord———

L. C. J. Should it not have gone to *Dudley North*, and then have been challenged for him?

Mr. Thomſon. No, I beſeech your Lordſhip, we don't ſay ſo. My Lord, we ſay, That whereas they do charge in the Information, that there was an Aſſembly for the Election of Sheriffs, and that Sir *John Moor* being then Mayor, did lawfully, according to Law, adjourn this Aſſembly; and that

afterwards the Defendents, *Pilkington* and *Shute*, did continue this Aſſembly, and took a Poll, and ſo they would make this a Riot in the continuance of it. My Lord, we do ſay this, That the Election of Mr. *North* upon this Point doth come in queſtion; and, my Lord, we do ſay, That if that prove not a legal Adjournment, then Mr. *North* is not legally Choſen.

L. C. J. Right, now you have told it in more words.

Mr. Thomſon. We ſay, If the Election be intereſted, they are all Parties by Law.

Mr. Serj. Jefferies. Who would you have the Proceſs go to?

Mr. Thomſon. To the *Coroner*.

L. C. J. Very well upon my word. If he were Sheriff, it cannot go to the *Coroner* you know, and therefore if he were challenged, to go to the *Coroner*——

Mr. Thomſon. Sub judice lis eſt, my Lord.

Mr. Serj. Jefferies. We deſire for the King, that the Challenge may be over ruled.

L. C. J. Ay, ay.

Mr. Serj. Jefferies. I deſire the Jury may be ſworn.

Mr. Williams. Certainly if they be impannelled by perſons that are not Sheriffs, that is a good Challenge, that is admitted by every body; now we have made a Challenge, and that is a good cauſe of Challenge certainly if that were the cauſe. But now, my Lord, I muſt confeſs what your Lordſhip ſays, it is a difficult matter to challenge any Array, becauſe they are arrayed by a perſon that hath an intereſt, or ſome ſuch thing, that is a Challenge of the Array, but that is not the matter in this caſe. It cannot be denied, If theſe perſons were not Sheriffs of *London*, that that is a good Cauſe. I take the Reſult of the Challenge to be this: Say we, The principal queſtion of this Information, the Riot, will depend upon this Queſtion, Whether there were a regular Adjournment or not? There, ſay we, begins the queſtion of the Riot. If ſo be that my Lord Mayor of *London* that was, had power to adjourn the Court, and it be admitted a regular Adjournment, certainly the Riot would follow, and what follows then? Then comes on a Queſtion, and it is immediately conſequent upon it, that theſe Gentlemen be actual Sheriffs of *London*, they being actually choſen upon this Adjournment, they are actually Sheriffs: But if really my Lord Mayor had no power to adjourn, and that power was in the Sheriffs, that they were actually taking the Poll, and the Poll was for Mr. *Dubois* and Mr. *Papillon*. Then the Queſtion is, If ſo be the Adjournment by my Lord Mayor were not a good Adjournment, then the Poll was a regular Poll taken by the Sheriffs, then conſequently thoſe that were elected upon that were truly choſen, and then it is a right Challenge. Theſe Gentlemen, I muſt confeſs, they are Sheriffs *de facto*, but we know very well there may be Sheriffs *de facto*, and there may be other Sheriffs *de jure*, theſe things are very conſiſtent. If ſo be that Mr. *Papillon* and *Dubois* be duly elected, they are Sheriffs *de jure*, but they want the Formality, for they are not ſworn, and cannot return a Jury. On the other ſide, the Sheriffs are Sheriffs *de facto*, but not legally choſen, and the Riot will depend upon that Queſtion, of the other perſons that are Sheriffs *de facto*, and not *de jure*. This we ſuggeſt in this, Whether your Lordſhip will receive this Challenge, or whether your Lordſhip will proceed firſt to the tryal of the Cauſe, and let this follow. My Lord, might not there have beeen ſomething in this caſe upon the Roll at *Weſtminſter*, might there not have been a ſurmiſe to this purpoſe, be-

cauſe

cauſe there is ſuch a queſtion upon the Roll; for it appears that the Common Hall was for the Election of Sheriffs, and that it was adjourn'd by the Mayor : And what followed? Might there not be ſuch a ſurmiſe, that the *Venire facias* ſhould not go to the Sheriffs, but to the Coroner? Might there not have been ſuch a thing?

L.C.J. My ſpeech is but bad, let me know what objection is made, and if I can but retain it in mymemory, I don't queſtion but to give you ſatisfaction. If the King had brought an Information againſt Mr. Sheriff *North*, and charged him with a crime, there is no manner of queſtion that the King ſhould have challenged as he was a Sheriff, and ſent the *Venire* to the Coroner, or other Officer; here he is not accuſed, nor to be acquitted of any crime. Gentlemen, I put you upon this, if ſo be the Sheriff of *London* ſhould get a great deal of money (but I never underſtood that he got by it) if you prove that he hath got any conſiderable matter by the Office, it would be ſomething in the caſe, that he ſhould be greedy of the Office. But look ye, on the other ſide, if there be nothing in it one way or another, that there is profit accruing to him by the Office, what can the Law ſay? But here was the queſtion between, indeed and in truth as you do open it, between theMayor, Sir *John Moor* I think, and the Sheriffs that then were, that was the queſtion between them. Now what is this in point of Law, that the Sheriffs muſt be challenged? They muſt be challenged, becauſe it is return'd by theſe Sheriffs: You can't, ſay the Sheriffs do favour — the King.

Mr. *Sol. Gen.* My Lord, We trouble your Lordſhip about a Queſtion very unneceſſary: The Sheriff is not concerned in this Queſtion, neither can the Conſequences affect the Sheriff any way.

Sir *Fr. Win.* My Lord, If I don't ſhew that he is concerned, notwithſtanding what Mr. Solicitor ſays, it is another matter. If this had been upon a common Riot, and not related to the Election of Sheriffs, it would have been harder againſt us. I only offer a word or two, and ſubmit to your Lordſhip. This Information doth take notice of the Election of Sheriffs, and of an irregularity in diſturbing the late Lord Mayor about adjourning the Poll; I do believe my Lord, it will not be denied but that in this Cauſe a Rriot or no Riot will depend upon the Poll, or the Mayors adjourning. If that be ſo, that which your Lordſhip is pleaſed to urge, That the Sheriff gets nothing, yet that he hath aſſumed the Office *de facto*, appears by the Return, that is very plain, my Lord, he hath aſſumed it, and did exerciſe it. If it appear to be legal or illegal upon the Adjournment by the Mayor, then it muſt have one of theſe two Conſequences, my Lord, I humbly conceive, till the Shrievalty had been agreed, it would have done very well for Mr. Attorney to let this Riot alone, unleſs he would have made it a common Riot; if he would have been pleaſed to ſtay till the Law had determin'd who had been the right Sheriffs, then *Proceſs* would have gone for the King. And my Lord, there is another thing under favour, if Mr. Attorney had been pleaſed to proſecute for the King; then ſurely, my Lord, there was a way to lay it ſo that the *Proceſs* ſhould be returned by perſons unintereſted, and not by the Sheriff whoſe Election is in controverſie: I don't argue out of the Record, but by the Record it ſelf. If in caſe it doth appear ſtill to be under conſideration; if that be ſo, I do humbly conceive, becauſe that right of Election of Sheriffs is undetermined, that therefore he might have made the *Proceſs* to the Coroner, if he would have made it before, but it ſhould not be heard before the Election of the Sheriffs,

Sheriffs, becauſe it will be a Riot, or not a Riot upon that.

L. C. J. Good-now, Sir *Francis*, you miſtake, it could not be to the *Coroner*.

Mr. *Sol. Gen.* My Lord, It is but wearying your Lordſhip to no purpoſe.

Mr. *Wallop.* If he be not Sheriff, that Title of his depending upon my Lord Mayors Adjournment, which is reaſonably ſet forth, it is concerned in the conſequence of the Cauſe.

Mr. *Attorn. Gen.* If you pleaſe, my Lord, I will anſwer what hath been ſaid. Mr. *Thomſon* did firſt urge according to the Rules of Law, if the matter that appears upon the Record to be the thing in queſtion; that if the Sheriff be intereſted in that matter, that that is a good cauſe of Challenge, that is a good Rule, and the Law is ſo; but that is nothing to this purpoſe, my Lord, here upon the Record there is nothing in queſtion but a Fine for the King, nothing to be recovered: Where Lands are in queſtion, as in an *Ejectment*, if the Sheriff be intereſted in that Land, in that caſe that is a good Challenge; but here appears nothing by the Record, here is nothing in queſtion but a Fine for the King; ſo that certainly that Caſe in point of Law, is nothing to the purpoſe. Then they ſay, it appears in the Record by Recital, and in the Information, for that is the ſubſtance of all they ſay: It doth appear there, as it is ſaid, that the Mayor did adjourn the Court, and ſo the queſtion of the Riot will very much ſtand upon the validity of that adjournment. But it doth not wholly ſtand upon that, for there are many outragious actions, aſſaults of the Mayor, throwing off his hat, great clamors, thruſting and preſſing many of the Aldermen; nay, bruiſing them, ſo that this Riot, notwithſtanding the Adjournment, be that as it will, will appear in the upſhot of the Cauſe, to be a Riot notwithſtanding that queſtion. But in the ſecond place, the queſtion of Mr. *North*'s being a Sheriff or not a Sheriff, no ways depends upon this Adjournment, no pretence of the Title depends upon that, ſo my Lord, they have ſuggeſted a thing that is forreign to the Record; it depends purely that upon a Cuſtom of the City for my Lord Mayor to elect, not upon the power of my Lord Mayor's Adjournment; for after that they proceeded on with the former choice of Mr. *Papillion* and Mr. *Dubois*; ſo that whether that Adjournment be a good Adjournment, or no good Adjournment, his Title will depend upon that, whether at the ſecond meeting or no Mr. *Papillion* and the other Gentleman be well choſen, and Mr. *North* not well choſen, ſo that his Title doth not depend upon this Queſtion one way or other. But, my Lord, that which makes this as frivolous a thing as ever was urged in a Court of Law, my Lord, that it ſhould have been upon Rule before any Direction to the Sheriff or Coroner, if they would have had *Proceſs*; they have ſuggeſted matter of Fact wholly out of the Record, matters have been ſuggeſted that it might have been tryed before it came to Direction; now there appears nothing in the Record to bring a Challenge to try the Matter; nay, as they themſelves ſay, it is to try the Merits of the whole Information, that the Information depends upon that Queſtion, Whether the Mayor may adjourn. It is a great Uſurpation upon the Government of this City, as they have done in other things to the King. My Lord Mayor is the Supreme Magiſtrate here, and the Sheriffs have nothing to do in this Point, and therefore I pray it may be over-ruled, and that the Jury may be ſworn.

Mr.

Mr. *Thomſon*, We would have, my Lord, the benefit of a Bill of Exceptions.

Mr. *Serj. Jefferies*, Swear the Jury, ſwear the Jury.

Mr. *Thomſon*, I have another Challenge.

L. C. J. I tell you plainly I ſee nothing in it for a Bill of Exceptions.

Mr. *Thomſon*, We deſire we may have the benefit of a Bill of Exceptions. My Lord, if this be the Caſe of trying a Riot, we muſt take what advantage we can in point of Law.

Mr. *Serj. Jefferies*, We come to counſel the King as we ought to do by Law.

Mr. *Thomſon*, My Lord, I challenge on the behalf of my Lord *Gray* this Jury.

Challenge read.

Seignior Gray.

Mr. *Attorn. Gen.* They call that a *Newgate* Challenge.

Mr. *Wallop*, That was a Challenge taken at the *Old Baily.*

Mr. *Thomſon*, And over-ruled.

Mr. *Serj. Jefferies*, And I pray it may be ſo here.

L. C. J. I think your Challenge is that they are not Sheriffs?

Mr. *Thomſon*, My Lord, is the Fact true or falſe? I deſire of theſe Gentlemen if it be inſufficient in point of Law, let them demur.

Mr. *Serj. Jefferies*, Pray tell me *Robinhood* upon *Greendale* ſtood; and therefore you muſt not demur to it.

Mr. *Thomſon*, If the Challenge be not good, there muſt be a defect in it either in point of Law, or in point of Fact. I deſire on the behalf of my Lord *Gray*, this Challenge may be allowed.

Mr. *Serj. Jefferies*, And I pray for the King, that it may be over-ruled.

L. C. J. I think you have owned them to be Sheriffs already.

Mr. *Serj. Jefferies*, My Lord *Gray* did own it in his Challenge, becauſe there were no Knights.

L. C. J. We try a great many *Niſi prius* here ſometimes, two or three days after the Term, every Defendant that thinks it goes hard with him, we muſt have a Tryal ſtill, whether the Sheriffs be Sheriffs, or no? This that you have done now, may be done in every Cauſe that we may be trying. Upon your Evidence if you can prove them none you go a great way.

Mr. *Thomſon*, My Lord, We deſire the Challenge may be allowed, or otherwiſe a Bill of Exceptions. My Lord, we pray a Bill of Exceptions.

Mr. *Serj. Jeoffries*, This Diſcourſe is only for diſcourſe ſake; I pray the Jury may be ſworn.

L. C. J. Ay, ay, ſwear the Jury.

Sir *Benjamine Newland, &c.* ſworn,

Mr. *Thomſon*, We challenge Mr. *Fenſil*, he hath given Evidence in this Cauſe at the Council-Table.

L. C. J. What then?

Mr. *Attorn. Gen.* My Lord, They ſhall have all fair.

L. C. J. Mr. Attorney ſays he won't ſtand upon it.

Mr. *Thomſon*, My Lord, we pray a Bill of exceptions.

L. C. J. I think many would not have offer'd it beſides you. Shall I go and ſign a Bill of Exceptions, to let all the World know this is ſo, and ſo all the World muſt try whether they be Sheriffs of *London*.

Mr. *Thomſon*, My Lord, don't ſay ſo, for I think all the Councel in the Court would.

L. C. J. If it doth fall out that in truth they don't happen to be Sheriffs, ſurely you ſhall have all the advantage that can be for you; but pray don't think that I will put off a Tryal upon every ſuggeſtion that the Sheriffs are not Sheriffs. You ſhall have all that is Law by the Grace of God, and I am not afraid that you or any man ſhould ſay, I don't do juſtice: I am not bound to gratifie every man's humour, I am to do according to my Conſcience, and the beſt of my knowledge, and according to my Oath, and I will do that and gratifie no man.

The Jury.

Sir *Benjamine Newland*	*Henry Wagſtaff*
Sir *John Matthews*	*Barthol. Feriman.*
Sir *John Buckworth*	*Thomas Blackmore.*
Sir *Thomas Griffith*	*Samuel Newton*
Sir *Edmund Wiſeman*	*William Watton*
Percival Gilburne.	*George Villars.*

Cryer.

O yes, O yes, O yes, If any man can Inform my Lord the King's Juſtice, the King's Serjeant, or the King's Attorney, or this Inqueſt now to be taken, &c.

Mr. *Dolbin*, May it pleaſe your Lordſhip, and you Gentlemen of the Jury, This is an Information brought by the King againſt *Thomas Pilkington*.

Gentlemen, the Information ſets forth, *That upon the* 24th *of* June *laſt in* Guildhall, *there was a Common Hall ſummon'd by Sir* John Moor *Knight, and thereupon held for the Election of Sheriffs for the Year then enſuing the Feaſt of St.* Michael: *And that on the ſame* 24th *of* June, *Sir* John Moor *then Mayor adjourn'd the Court till the Tueſday following by Proclamation. That after the ſaid Adjournment, my Lord Mayor made Proclamation for all Perſons to depart; and that the Defendants intending to diſturb the Peace of the King after the Adjournment aforeſaid, did unlawfully, with many Perſons unknown, meet together, and Riotouſly aſſault the Lord Mayor. And after the Adjournment by Proclamation, two of the Defendants,* Pilkington *and* Shute, *by colour of their*

their Office as Sheriffs of this City, and the reſt of the Defendants did continue the Poll, and unlawfully affirm to the People, That Sir John Moor *had no Power to Adjourn them. And that they continued this great Tumult three hours, to the Terror of the King's Subjects, and the evil Example of others, and againſt the Peace of our Soveraign Lord the King. To this the Defendants have pleaded* Not Guilty, *&c.*

Mr. Att. Gen. This Information, my Lord, is brought for ſetling the Peace in this City, and to ſhew before you all who is the Supream Magiſtrate under the King in this City: For that, Gentlemen, you ſee, is grown a great Queſtion, Whether my Lord Mayor is not only in the Hall, but in his Chair the Supream Magiſtrate.

Gentlemen, I muſt acquaint you, That my Lord Mayor in all times, even before the City had the Election of him, was the King's Lieutenant, and the Supream Magiſtrate in the City, and no Publick Aſſemblies could ever meet together without his Summons, he was the great and chief Directer, and this I believe in all your Obſervations that are of the Jury. I can make it evident, That this hath been the conſtant frame of this Government in the City: For the Sheriffs, Gentlemen, they are no Corporation Officers, they are County Officers, as in all the Counties of *England*, and they are the King's Officers for the execution of the King's Writs, and the Preſervation of the King's Peace; but the Government of the Corporation is in the Mayor, and not in the Sheriffs. Gentlemen, The Queſtion now ariſing here, is about the Election of Sheriffs; it's true, there was very diſorderly Tumultuous Proceedings; my Lord Mayor he comes and doth appoint another day for them, and diſcharges them at that time. We will make appear to you, that it was always his Right in all times, both to Summon a Common Hall, and diſſipate it, and appoint them another day, or to Diſſolve them, as the Mayor did ſee cauſe. The Mayor having according to the ancient manner Adjourned this Court, the Sheriffs they proceed, do not only refuſe to obey, but they proceed, and make Proclamation, That it is not in the Power of the Mayor, taking upon them that which never any Sheriffs did in any time, they make Proclamation contrary to what the Mayor had done, and continue the Poll, and proceed and Proclaim the Mayor had uſurped that power which was theirs, though afterwards they tranſferr'd the Supream Power to the Livery-men: But I think no age will ſuffer that the Supream Powower ſhould be in the Livery-men, that are expreſly appointed to act by a Common-Council, which is indeed the Repreſentative of the whole City. But this, Gentlemen, being done by the Sheriffs, having Uſurped the Power of the Mayor, they did proceed in a riotous manner; when the Mayor attempted to go out of the Hall, they ſtruck him, ſtruck his Hat off, and preſſed ſeveral of the Aldermen, the Evidence will make out in what an Outragious manner it was carried on. If the others had made Oppoſition, how ſoon had all been in Confuſion upon this Uſurpation, that the Sheriffs had ſet up for themſelves, that they are the Delegates of the People, and muſt appear to be the Supream Magiſtrates of the City of *London*; I think the Citizens themſelves will never endure, that thoſe that are but County-Officers, ſhould ever invade the Government of the Corporation. Gentlemen, We will ſhew you the Particulars of this, and you have nothing to enquire after, but whether they are Guilty of the Riot, or no.

Mr. Sol. Gen. My Lord, We will call our Witneſſes, and prove our Caſe by theſe Steps. For the Queſtion, That whether or no the Defendants in the Information were Guilty of a Riot, in continuing the Aſſembly after my

Lord Mayor had adjourn'd them, we will prove it by theſe ſteps, that it is in the Power of the Lord Mayor to call a Common Hall, and adjourning the Common Hall: That my Lord when the Common Hall was Aſſembled for the purpoſe of Electing Sheriffs, that he did Adjourn the Common Hall; and that contrary to his Adjournment the Sheriffs continued it, declaring my Lord Mayor had no Right ſo to do. And that afterwards my Lord Mayor commanded them to depart, and they continued their Aſſembly there in a very Riotous manner: And as my Lord Mayor came down, they offered Inſolencies to his Perſon, and they continued the Aſſembly there in a Riotous manner, and commended the Sheriffs that did aſſert their Right, following them in a Riotous manner into *Cheapſide*, crying out in a factious manner, *God bleſs the Proteſtant Sheriffs.*

Mr. Serj. Jefferies, My Lord, We would call our Witneſſes, but for the ſake of the Gentlemen of the Jury; and that the thing in queſtion may be more intelligible, I beg leave to acquaint your Lordſhip with the Methods that have always been obſerved in the Elections of this City. My Lord, We will make it appear, and I think it will not be doubted by any man that knows the City of *London*, That Common-Halls are always Summoned to appear by the Intimation of the Mayor; for the Mayor himſelf at any time when he finds an occaſion either for the Aſſembling of a Common-Councel, or the Aſſembling a Common-Hall, *&c.* Iſſues forth Precepts, (they are words that you Gentlemen do underſtand very well) to Summon a Common-Hall, or Common-Councel, as he thinks fit: It is very true, though they do uſually make Summons for *Midſommer-Day*, yet *Midſommer-Day* being a publick and notorious Day appointed for the Choice of ſome particular Officers, they are not ſo exact in the Summons for that Day; for they do preſume that every body takes notice of the Buſineſs of that Day: But whereas in the Record there is only notice taken concerning the Election of Sheriffs on *Midſommer-Day*, it is notoriouſly known to all Gentlemen that are Inhabitants in *London*. There is alſo on that day a Choice of Chamberlain and Auditors of the *Bridg-houſe*, and Chamber Accounts, and ſo down to Ale-Conners; and the Sheriffs of *London*, *quâ* Sheriffs of *London* in theſe Elections, are no more in the Caſe, than any private man is; That as ſoon as the Election of theſe Officers is diſpatched, (for I my ſelf have had the Honour to ſerve the City ſome time, and know their Methods very well, therefore I take the liberty to explain it to ſome of theſe Gentlemen that are Foreigners.) My Lord, I ſay, as ſoon as ever this is done, an Account is given to the Mayor and Aldermen, and the Mayor orders the Diſſolving the Aſſembly: And, my Lord, it was frequent, before people were ſo ambitious to come into the Office of Sheriffs, as they have been within two or three years laſt paſt; till which time it was not known that People were fond of the Office; for they uſed *to go aBirding*, as they call it, to get in Perſons that would Fine off from the Office, rather than undergo the burden of it; and when that was done, then the uſual Method was to call another Common-Hall for the Election of another: But never made application to Mr. Sheriff to let them have a Common-Hall, but the common way was to go to my *Lord Mayor's* Houſe, to know his Pleaſure, and he of himſelf appoints a Common-Hall at ſuch time as he prefixes, and then intimates the purpoſe of their meeting, and orders the Sword-bearer, or other Officer that is Attendant upon his Perſon in his Houſe, to ſend forth Precepts accordingly, and there may be ſometimes but one Sheriff at a Common-Hall: I have

have known it ſometimes when there hath been never a Sheriff, and yet they have not thought they have wanted a Judge, of that Aſſembly; but, my Lord, when all the matter is over, and perſons are declared to be choſen into this or that, or the other Office, in the Common Hall, then an Officer of the City; not an Officer of the Sheriffs, but an Officer which is called by the name of the *Common Cryer*; he makes Proclamation upon the Huſtings, where my Lord Mayor is Judge, for all Gentlemen to depart for that time, and to give their attendance there at another Summons. And now, my Lord, to make the thing a little more intelligible, there is a difference between the Choice of the County Officers and the Corporation Officers; For at the Election of City Officers, the *Common Serjeant*, the *Common Cryer*, and Town Clerk, are the Officers that attend and manage the Common Hall, where my Lord Mayor is looked upon to be the Superintendent; but at the Election of Parliament men, the Writ is directed to the Sheriff, and they interpoſe in all the management, and then the *Common Serjeant* and *Common Cryer* have nothing to do, but at ſuch times the *Secondaries of the Compter*, which are Deputies to the Sheriffs, they come and manage the whole Affair. This I tell you, becauſe I have been pretty well acquainted with the Methods of the City. I do very well remember I had the Honour to ſerve the City of *London* at that time Sir *Robert Clayton* was Lord Mayor, and there was a great occaſion to try a perſon about the Aſſaſſination of Mr. *Arnold*, and the Queſtion was, Whether they ſhould proceed to a Poll or not, becauſe they were to go to the *Seſſions-Houſe* in the *Old Baily*, in order to the trying of that perſon. That worthy Gentleman being then in the Chair, I had the Honour to ſit by him; ordered the Court to be adjourned for a day or two, becauſe they were to go to the *Seſſions*. There was no asking the *Sheriffs* Opinion when Sir *Robert Clayton* was *Lord Mayor*, nor there was no ſuch thing then, but now the Caſe was altered, for Sir *J. Moor* was *Lord Mayor*. Now, my Lord, Sir *John Moor*, like a good Magiſtrate, endeavouring to preſerve the Priviledges of the Chair, there happened a Controverſie amongſt the Members of the Common Hall, whereby the publick Peace of the Kingdom might have been very much injured, as well as the Peace of the City much diſturbed. To prevent which, Sir *John Moor*, with the advice of his worthy Brethren the Aldermen, came upon the *Huſtings*, and found they were all in an uproar, and not cool enough for any Debate; for they were wound up to that height of Fury or Madneſs, that they had not a good word to beſtow upon their Magiſtrates, nor upon him whom their chief Magiſtrate did repreſent. For we muſt tell you, when they cried, *Pray God bleſs the King*, as is uſual for the Officer upon ſuch Occaſions; many cryed, No, *God bleſs the Sheriffs*, the Proteſtant Sheriffs. Whereupon my Lord Mayor for preſervation of the Peace adjourned the Common Hall, and required the Members to depart and come down off the *Huſtings*; the Rabble, for by the way a great many of theſe perſons in this *Information*, as Mr. *Goodenough*, and the reſt of them, were not Livery men, nor concerned in the Election one way or other, but came there on purpoſe to foment and to raiſe up the ſpirits and malignant diſpoſitions of a ſort of people that are Enemies to the Government; they came to foment Quarrels, and not maintain Peace. My Lord, when *my Lord Mayor* came off the *Huſtings*, they

came upon him, had him down upon his Knees, and his Hat off, and if ſome Gentlemen had not come in, they had trod him under feet; ſuch an Indignity was then done to the *Lord Mayor* of *London*, who, I think I may ſay, deſerved as well from the Government of this City, as any Gentleman that ever preſided in that Office, that before had not been heard. My Lord, We will call our Witneſſes, to prove the manner of the Elections to be as I have opened it, and to prove the matter in the Information.—Call the *Common Serjeant* and *Mr. Lightfoot*, the *Common Cryer* and the *Sword-bearer*.

Mr. Att. General. Mr. *Lightfoot*, Pray give an account to the Jury and the Court of the manner of Election and chuſing of a Common Hall, and the manner of it.

Mr. Lightfoot. My Lord, I have been almoſt 25 Years an Attorney, I always took it that the Serjeant of the Chamber had order to go down to the Clerks or Beadles of the Companies, to ſummon a Common Hall by ſuch a day.

Mr. Att. Gen. By whoſe Command?

Mr. Lightfoot. By my Lord Mayor's.

Mr. Att. Gen. In all your time did the Sheriffs ever ſummon any?

Mr. Lightfoot. O no.

Mr. Serj. Jefferies. Pray Mr. *Lightfoot* thus, When they were met, what was the uſual Method?

Mr. Lightfoot. Before the *Lord Mayor* and *Aldermen* were ſet, the People walked up and down the Hall till the *Lord Mayor* did come, but as ſoon as my *Lord Mayor* came, the *Common Cryer* made Proclamation, *O yes, you good Men of the Livery ſummoned ſuch a day for Election and ſo, draw near, and give your Attendance.*

Mr. Att. Gen. Whoſe Officer was the *Common Cryer?*

Mr. Lightfoot. My *Lord Mayor's* Officer.

Mr. Serj. Jefferies. A Corporation Officer.

Mr. Att. Gen. Now for the diſſolving them.

Mr. Lightfoot. When they have done the buſineſs, *Mr. Town-Clerk*, as I take it, takes his direction from the *Lord Mayor*, and he bids the Officer make Proclamation, *You good Men of the Livery, depart hence for this time, and appear at a new Summons.*

Mr. Att. Gen. Did the *Sheriffs* ever diſſolve them?

Mr. Lightfoot. Never.

Mr. Att. Gen. Did the *Common Hall* do it?

Mr. Lightfoot. No, there was no ſuch thing.

Mr. Jones. Mr. *Lightfoot*, After my *Lord Mayor* had diſmiſt the Hall, did you ever hear the *Sheriffs* keep them together?

Mr. Lightfoot. All the People went away, till within this three or four Years.

Mr. Jones. Since when?

Mr. Lightfoot. Since Mr. *Bethel*, about that time.

Mr. Serj. Jefferies. Ay, in *Bethel* and *Corniſhes* time, then began the Buſtle.

Mr. Williams. You ſay you have been an Attorney 25 Years, I would ask you, in all that time, Mr. *Lightfoot*, in all that time did you ever know the Lord Mayor adjourn the Common Hall to a certain day?

Mr. Lightfoot. There was never any occaſion.

Mr. Thomſon.

Mr. Thomſon. Anſwer my Queſtion.

Mr. Lightfoot. I never did.

Sir Fr. Winnington. I would ask you another Queſtion, Mr. *Lightfoot*, Did you ever know before the Election was over, when the Electors were chuſing Sheriffs, or polling or debating it, did you ever know in the middle of it, the Mayor againſt the will of the Sheriffs adjourn it?

Mr. Lightfoot. No, no.

Mr. Sol. Gen. Did ever the Sheriffs undertake to keep them together before theſe late times?

Mr. Lightfoot. No, never.

Mr. Thomſon. Pray, Sir, this, Though it is uſual, after the Sheriffs have taken the Poll, to acquaint my Lord Mayor; Did your ever know that the Sheriffs have adjourn'd the Common Hall, without acquainting my Lord Mayor?

Mr. Lightfoot. No.

Mr. Thomſon. I ask you one Queſtion more, Do you remember when there was a Poll between Sir *Thomas Stamp* and another?

Mr. Lightfoot. No, I did not charge my Memory with it.

Mr. Thomſon. Do you remember when there was a Poll between Sir *Robert Clayton* and Mr. *Kyffen?*

Mr. Lightfoot. I was about the Hall.

Mr. Serj. Jefferies. Do you remember when there was a Poll between Sir *Simon Lewis*, and Mr. *Jenks?* Who did manage that Poll?

Mr. Com. Serj. I did.

Mr. Williams. Are you upon your Oath?

Com. Serj. Yes, I am.

Mr. Lightfoot. When they were gone to the Poll, I went out of the Hall.

Mr. Att. Gen. Did you ever look upon it that the Sheriffs had any thing more to do than others?

Mr. Lightfoot. No.

Mr. Att. Gen. Who were induced to take the Poll? Was it by the Sheriffs, or the Lord Mayor?

Mr. Lightfoot. I have been appointed by my Lord Mayor. I do know that the Sheriffs have taken upon them to appoint a Poll, and then my Lord appointed his Clerks in the Houſe to be aſſiſtant to the Common Serjeant, and the Town-Clerk; I never was but in two Polls, one for Mr. *Box*, and another for my Lord Mayor. One went on with the Poll in one place, and the other in another.

Mr. Att. Gen. But before that time, Sir.

Mr. Lightfoot. I know nothing of that Sir, I was never concerned before.

Mr. Holt. Pray, Sir, Who uſed to manage the Poll before this time?

Sir Fr. Winnington. Mr. *Lightfoot*, I would ask you a Queſtion, Who managed the Poll before?

Mr. Lightfoot. I have been in a Common Hall when they have been chooſing Sheriffs, when ſeveral have fined. And it hath been upon the queſtion when the Hall hath divided, and they have Polled in the Hall.

Sir *Fr. Winnington.* Who Polled them?

Mr.

Mr. Lightfoot. The Sheriffs and the Officers ſtood and ſaw them go out, and this is within theſe few years.

Sir *Fr. Winnington. Mr. Lightfoot*, I ask you thus now in all your Obſervations when there was any Conteſt, who was Sheriff upon the Election and the Diviſions during the time of Election, and before it were at an end, who did manage it, the Sheriffs, or the Lord Mayor?

Mr. Lightfoot. When the Court had been proclaimed, and the Recorder had ſpoken to them, my Lord Mayor and the Aldermen withdrew from the Huſtings, and the Sheriffs and other Officers ſtood there with them; then the Commons propoſed who they would have put in nomination, and they were put up; then the Sheriffs have turned back to the Gentlemen upon the Huſtings to ask their opinions, how are your opinions concerning the Hands? We do think it goes ſo; then it hath been declared.

Sir *Fr. Winnington.* By whom?

Mr. Lightfoot. The Common Cryer, or the Common Serjeant.

Sir *Fr. Winnington.* You ſay, as ſoon as my Lord Mayor withdrew, during the time of Election, the two Sheriffs managed the Hall.

Mr. Lightfoot. In that manner with others.

Sir *F. Winnington. Mr. Lightfoot*, Do you remember who Adjourned the Hall, when *Mr. Bethel* and *Mr. Corniſh* were Choſe?

Mr. Lightfoot. I can't tell.

Mr. Ser. Jefferies. Mr. Com. Ser. Are you Sworn?

Mr. Com. Serj. Yes.

Mr. Serj. Jefferies. Pray will you tell my Lord and the Jury what you have obſerved in particular, becauſe I mentioned it in the time of Sir *Robert Clayton*; mention how that was.

Mr. Com. Serj. My Lord, when the Common Cryer hath made Proclamation, the Lord Mayor and Court of Aldermen being ſet upon the Huſtings, Mr. Recorder makes a Speech; as ſoon as that is done, my Lord Mayor and the Aldermen retire into this Court, leaving the Sheriffs and me, and the reſt of the Officers upon the Huſtings, and I there manage the Election, and when the Election is made, I go up to the Court of Aldermen, and make Report of what hath been done in the Hall. I declare the Election, and I manage the Election, and do it as the duty of my Place.

Mr. Williams. Who manages the Election?

Mr. Com. Serj. I manage the Election; I declare what is my opinion of the Election in the Hall; and I come and make Report to my Lord Mayor in this Court; then my Lord Mayor and the Aldermen, and the Recorder come down again. I remember particularly when Sir *Robert Clayton* was Lord Mayor, it was about the Choice of *Mr. Bethel*, and Alderman *Corniſh*, and there was a great diſturbance in the Hall; then I came into the Court, and after I had made my Report, I offer'd to give the Paper to the Recorder that then was: Sir *George Jefferies*, he told me that the people wou'd not hear him, and therefore he wou'd not take the Paper. Upon that Sir *Robert Clayton* ſaid to me, Prethee, do thou ſpeak to them, they will hear thee if they will hear any body; for the Hall was in a great uproar, and they call'd to throw me off the Huſtings, and then I made Anſwer to Sir *Robert Clayton*; Sir, It is not the duty of my Office, and when I do any thing that is not my Office, I

ſhall

ſhall expect particular Directions. Then, ſaith he, You muſt tell them, I muſt Adjourn them till *Munday*, becauſe I go to the *Old Baily* to try the Aſſaſſinates of *Arnold*. Thereupon the Hall was Adjourned, and Proclamation made to depart; and my Lord Mayor attempting to go, was beat back twice or thrice, but at laſt they let him and the Aldermen go, and kept the Sheriffs and me till Evening. At laſt Mr. *Papillon* came up to me, *Mr. Papillon* ſays I, I am glad to ſee you, you will hear Reaſon, ſays he, why do not you go on with the Poll? I told him, my Lord Mayor had Adjourned the Hall: Says he, I did not hear it before; but now you tell me ſo, I will go out of the Hall: Says I, Sir, you will do very well to tell the Hall ſo; which he did, and ſome went away; and further Adjournments were made by the direction of my Lord Mayor.

Mr. Att. Gen. I would ask you a Queſtion or two; Who do you look upon to be the Chief Magiſtrate of the City?

Mr. Com. Ser. My Lord Mayor, Sir.

Mr. *Att. Gen.* Pray, in all your time till this, was there no Uproar? Did ever any Sheriff undertake to Control the Mayor in the buſineſs of putting Queſtions, or taking Votes?

Mr. *Com. Serj.* Sir, there was never any diſpute till Mr. Sheriff *Bethel* was upon the Huſtings, and then there was.

Mr. *Att. Gen.* As whoſe Officer did you do it?

Mr. *Com. Serj.* My Lord Mayor's, and the City of *London's*; I have nothing to do with the Sheriffs, for when there is a Writ comes for the Choice of Parliament men, directed to the Sheriffs, I never do it, but *Mr. Secondary*.

Mr. Att. Gen. I ſpeak of later Diſturbances.

Mr. Com. Ser. The firſt Diſpute about Sheriffs, ſince I was Common Serjeant, was about *Mr. Jenks*, and that Poll was taken by the direction of the Lord Mayor, by the Town Clerk and my ſelf; and our Books ſay, If there be a Diſpute in the Common Hall, it muſt be decided as in the Common Council. It is in *Liber albus*.

Mr. Att. Gen. Liber niger.

Mr. Serj. Jefferies. No, *Liber albus*.

Mr. Att. Gen. Liber albus? It is *Liber niger*, they turn the white Book into a black Book now.

Sir *F. Winnington.* At that time, Sir, when my Lord Mayor was willing to go to the *Old Baily*, Did the Sheriffs do any thing farther?

Mr. Com. Serj. The Sheriffs did not meddle in the matter.

Mr. Serj. Jefferies. Mr. *King*, Pray give my Lord and the Jury an account of what you know of this matter.

Mr. Peter King. I have been at a Court of Common Hall 28 years, my Lord, and have been concerned, I never looked upon the Sheriffs to have any concern there. And I do very well remember, Sir *George Jefferies*, I do remember and know; they did always in ancient times take advice of the Officers by, and they never did eſteem themſelves in thoſe days, to be any more concerned than as the beſt Officers to be preferred before the reſt: When my Lord ſays, Come up, they come in order, the Maſters and Wardens of the Companies.

Mr. Att. Gen. Who did do the buſineſs upon the Huſtings?

Mr. King. All of them, Sir, altogether.

Mr. Att. Gen. Was there never any difference about the Votes?

Mr. King. Sometimes they have ſtood upon it.

Mr. Att. Gen. When there was a Queſtion made to know who had the moſt, who decided it?

Mr. King, They generally asked one another, What do you think, and what do you think? I ſpeak for 20 years together ſince the King came in.

Mr. Att. Gen. I hope in God there hath been a King in *England* for 20 years, though perhaps ſome of the Sheriffs that were then in Debate, would have had none.

Mr. Thomſon, Mr. *King*, I only deſire to know this of you, becauſe I know you know Queſtions; I deſire, my Lord, to know whether he ſpeaks it to be a matter of Right, or his Opinion; for we know Mr. *King*'s Opinion will go a great way in this matter. Do you ſpeak it as a thing of Right, or as your Conceptions?

Mr. King, Sir, it would be a thing very confident in me to determine of the Right, but only as I always eſteem'd it.

Mr. Serj. Jefferies, Mr. *King*, I would ask you this Queſtion; Pray do you tell your belief upon the Obſervation that you have made from time to time of the Practice there?

Mr. King, An hundred and a hundred Common Halls I believe I have been at.

Mr. Thomſon, That's good ſtore.

Mr. Ser. Jefferies, That may be when there are many Fines; when I was Common Serjeant there were 5000 pounds Fines one year.

Sir *F. Winnington*, I deſire you to give your opinion, you ſay they are all equal that are there.

Mr. King, Every Officer in his degree; for if 20 men go together, he that is beſt ſpeaks firſt.

Mr. Att Gen. Were the Sheriffs allowed to be there, or no?

Mr. King, The Sheriffs are always bound to attend my Lord Mayor by their Oaths, unleſs they have lawful excuſe.

Mr. Jones, Mr. *King*, Did the Sheriffs ever continue the Aſſembly after it was diſſolved?

Mr. King, No, Sir.

Mr. Jones, Or could they do it?

Mr. King, I can't ſay that.

Mr. Thomſon, Did you ever know my Lord Mayor Adjourn the Court till the Hall had done?

Mr. King, I can't tell.

Mr. Thomſon, I tell you, Sir, Sir *Samuel Starling* did.

Mr. Serj. Jefferies, But the Sheriffs could not do it.

Mr. Thomſon, Nor he neither, for he paid for it.

Mr. Holt, Mr. *King*, I ask this Queſtion; Who declares the Poll in the Hall?

Mr. King, The Common Serjeant.

Mr. Holt, Who directs him uſually?

Mr. King, His Office directs it ſelf.

Mr. Holt, I ask if the Sheriffs don't agree, who is elected before the Common Serjeant make Proclamation?

Mr. King, They always agree, unleſs it be very clear; I have known the Common Serjeant do it ſeveral times without diſputing.

Mr. Com. Serj. When Perſons are put in Nomination, and the hands are held up; I generally ask the People about me, who have moſt, and particularly the Sheriffs, and ſo make Declaration.

L. C. J.

L. C. J. The Officers ask one another, who they think has moſt? that doth not give them the Juriſdiction, that they chuſe Officers without the Lord Mayor or Sheriffs: but, for ought that I ſee, theſe Officers have had more to do about the Choice than the Sheriffs have. Theſe Officers conſult one with another commonly, and conclude which ſide have moſt; and then report it to my Lord Mayor.

Mr. Serj. Jefferies, Firſt of all, when they put any Queſtion for any Officer in the Common Hall, the uſual way of putting the Queſtion is, *As many of you as would have ſuch a man to be ſuch an Officer, hold up your hands:* And if the Election be clear, Proclamation is made preſently: If not, the Common Serjeant asks, *Who they think hath the Majority?* Which being declared, they acquieſce. But ſince *Mr. Bethel* came in, there have been very hot diſputes in the World; but before his time there were attempts made to keep Sheriffs off, but never before to get Sheriffs on. And after the Election is declared below, immediately they go to my Lord Mayor, and report it to him: and then comes down the Mayor and Aldermen to the *Huſtings*, and the Recorder ſays, *We are informed that ſuch and ſuch perſons have been put in Nomination, and the Election paſſed upon ſuch and ſuch.* And then the Lord Mayor commands the Aſſembly to be diſſolved. *Mr. Wells*, When the Common Hall is firſt met together, are not the Lord Mayor and Aldermen generally preſent?

Mr. Com. Cryer, At the firſt meeting.

Mr. Serj. Jefferies, When they are there ſet, give an Account what Proclamation is there made.

Mr. Att. Gen. How long have you known it?

Mr. Com. Cryer, I have been in this place almoſt ſeventeen years; I always come with my Lord Mayor; I do make Proclamation by Order of my Lord Mayor, dictated by the Town-Clerk; and I take the words from the Town Clerk, and his words I ſay; *You good Men of the Livery, ſummoned to appear here this day, for the Confirmation of ſuch a one choſen by my Lord Mayor, and another fit and able perſon to be Sheriffs of the City of* London *and County of* Middleſex *for the Year enſuing, draw near, and give your Attendance.* I never adjourned the Court in my life, but by Order from my Lord Mayor; nor never diſſolved the Court, but by Order from my Lord Mayor.

Mr. Serj. Jefferies, *Mr. Common Cryer*, I would fain know this; When my Lord Mayor is gone, and the Aldermen, during the Election, do you ever diſmiſs the Court before my Lord comes down again; and do not you take the very words of Diſſolution from the Town-Clerk?

Mr. Com. Cryer, I do ſo.

Mr. Serj. Jefferies, And what is uſual in your time when Sheriffs have fined off, who gives directions for a Common-Hall?

Mr. Com. Cryer, My Lord Mayor, Sir.

Mr. Att. Gen. Who is it puts the Queſtion, the Common Serjeant or the Cryer?

Mr. Com. Cryer, The Common Serjeant dictates the words to me, and I never take them from any other; I have taken the Paper into my own hands, but never but one year neither, when they were in a confuſion; the time when *Mr. Bethel* was choſen there was ſome difference, I did read the Names that time, and never but that one time. I always take the words from the Common Serjeant; I never put any Vote, but what I have from the Common Serjeant.

Mr. Att.

Mr. Att. Gen. Do the Sheriffs put any Vote?

Mr. Com. Cryer, Never, Sir.

L. C. J. I do not understand him; I think he did mean, when *Bethel* was chosen he put the Question by some body else.

Mr. Serj. Jefferies, No, no, he took the Paper in his hand. Before he used to take Dictates from the Common Serjeant; but there was a confusion when *Bethel* was chosen, and then he took the Paper from the Common Serjeant, and read it.

Mr. Com. Cryer, He gave me the Paper into my hand.

Mr. Com. Serj. My Lord, they made such a noise that he could not hear me.

Mr. Williams, *Mr. Wells*, how long have you been Common Cryer?

Mr. Com. Cryer, about seventeen years.

Mr. Williams, In all that time did you ever hear the Lord Mayor adjourn the Court to a certain day?

Mr. Com. Cryer, Yes.

Mr. Williams, To a certain day?

Mr. Com. Cryer, My Lord Mayor adjourned this Common Hall to a certain day.

Mr. Williams, I ask you upon your Oath again, Did you ever [illegible] the Lord Mayor adjourn a Common Hall to a day certain?

Mr. Serj. Jefferies, Do you remember that of *Sir Robert Clayton*'s?

L. C. J. If so be they be adjourned, to meet upon a new Summons, if there be occasion, no question but he may to a certain day.

Mr. Williams, Now we are upon matter of fact.

Sir Fr. Winnington, Did you ever know my Lord Mayor adjourn them before the Election of Sheriffs was over? Here is my Question, observe it. When after once my Lord Mayor is gone out of the Hall, when the Election begins, did you ever know my Lord come and disturb the Election, or adjourn it before it was done?

Mr. Com. Cryer, I never knew any thing of it before now.

Mr. Att. Gen. Mr. Wells, do you remember that instance in *Sir Robert Clayton*'s time?

Mr. Com. Cryer, No, Sir.

Mr. Att. Gen. Have not you known my Lord Mayor dissolve the Court before the business hath been done; take up his Sword, and be gone?

Mr. Com. Cryer, When he hath a mind to adjourn the Court, and declare it, I adjourn it by his Order.

Mr. Att. Gen. But have you not known him take up his Sword, and be gone before the Election is over?

Mr. Com. Cryer, *Sir Robert Clayton* did do that before the business was done.

Mr. Thomson, *Mr. Wells*, do not you remember, in *Sir Samuel Starling*'s Case, that he did adjourn the Hall?

Mr. Com. Cryer, He dissolved the Hall.

Mr. Thomson, Very well.

Mr. Serj. Jefferies, He did dissolve the Hall, and so hath every Lord Mayor since. My Lord, if your Lordship please, I perceive this Gentleman makes a Question, whether ever there was an Adjournment of a Common Hall before such a time as the Election of Sheriffs was over. I will give you an Answer to that Question, and a very fair one, and a plain one: I say, till the time of *Bethel*, in *Sir Robert Clayton*'s Mayoralty, there was never such a thing as a Poll for Sheriffs. *L. C. J.*

L. C. J. Silence, that we may hear.

Mr. *Williams*, My Lord, we only ask a Queſtion; we ask a Queſtion, and take our Anſwer.

Mr. Serj. Jefferies, Will you give us leave to go on, Sir?

Mr. Att. Gen. Sir *William Hooker*, Pray how long it is ſince you were Sheriff of *London*?

Sir *William Hooker*, About 16 or 17 years ago.

Mr. Att. Gen. You have been Sheriff and Lord Mayor of *London*, I would only know, whether you looked upon it as your right when you were Sheriff?

Sir *William Hooker*, No, nor never durſt preſume to think it: In thoſe days it was not thought upon.

Mr. Att. Gen. When you were Lord Mayor, did you order Summons for Common Halls?

Sir *William Hooker*, Always.

Mr. Att. Gen. Did you ever uſe to conſult with your Sheriffs when to call a Common Hall?

Sir *William Hooker*, Never, and I think no ſuch thing was ever heard of under the Sun, till of late.

Mr. Thomſon, Sir *William Hooker*, Did you ever Adjourn the Court before the buſineſs was done?

Sir *William Hooker*, I never ſaw any ſuch occaſion, Rebellion was not ripe then.

Mr. Att. Gen. Sir *William*, Pray thus; Have you ever in a Common Council, or Common Hall, known my Lord Mayor riſe before the buſineſs was done, and take his Sword?

Sir *William Hooker*, I confeſs I muſt own it, That when things grew to a greater height, I was forced once in this place to cauſe the Sword to be taken up and go out, and the Court was diſſolved, and durſt not go on after I was gone.

Mr. Serj. Jefferies, Now my Lord, if your Lordſhip pleaſe, I deſire to call the Sword-Bearer.

Mr. *Williams*, Sir *William Hooker*, If I may without offence ask you, how old are you?

Sir *William Hooker*, Seventy years of age, Sir.

Mr. Williams, You ſay, you never knew Rebellion ripe?

Sir *William Hooker*, Good Sir, I perceive you are very apt to miſtake I lived in 41 and 42.

Mr. Att. Gen. Sir *William*, Can you remember the Meeting in 48?

Sir *William Hooker*, Ay, very well.

Mr. Att. Gen. Then they uſurped the very ſame Power, and an Act of Parliament to confirm it.

Mr. Serjeant *Jefferies*, My Lord, I deſire Mr. Sword-Bearer may be Sworn.

Sir *Franc. Winnington*, Pray Sir, in all the time that you have been acquainted with the Cuſtoms of *London*, did you ever know when there was an Election for Sheriffs, that the Lord Mayor did interpoſe or meddle till the Election was over?

Sir *William Hooker*, Sir, of late years I have not appeared, becauſe of an Infirmity, I cannot be long in *London*; but in all that time I uſed to appear, I never did obſerve any ſuch thing.

Sir *Fr. Winnington*, That the Mayor ever meddled?

Sir *William Hooker*, Nay, Sir, that the Sheriffs ever meddled: When I was Sheriff of *London* I durſt not preſume to meddle, but left the whole to my Lord Mayor.

Sir *F. Winnington*, Did you ever know when the Election of Sheriffs was in a Common Hall, that the Lord Mayor offered to diſturb them till the Election was over?

Sir *William Hooker*, Truly I do not remember any ſuch thing. Sir *Fr. Winnington*, I would give you a full Anſwer, I do tell you, as it hath been declared; My Lord Mayor and the Aldermen came into the Court, and a Report is made; when this is done, they leave the management of the Affair to others, we come and ſit down till it is done.

Sir *F. Winnington*, To whom do you leave the Concernment?

Sir *W. Hooker*, To the Officers that it belongs to.

Sir *F. Winnington*, Who are thoſe Officers?

Sir *W. Hooker*, I never heard it diſputed till juſt now.

Mr. *Jones*, Sir *W. Hooker*, you have been an ancient Citizen, do you remember that ever the Sheriffs preſumed to hold this Court?

Sir *W. Hooker*, No, never in my life. ——You may confound any man at this rate.

Mr. *Williams*, Pray, Sir, in your time was there a Poll for Sheriffs in *London*?

Sir *W. Hooker*, Truly not as I remember.

Mr. *Williams*, Do you remember any Poll in your time? If you don't remember a Poll, you can't remember who took it.

Mr. Sol. Gen. Pray, Sir *William Hooker*, do you ever remember the Sheriffs appointed the Common Serjeant to take the Poll?

Sir *W. Hooker*, Never in my life.

Mr. Serj. Jefferies, Mr. Sword-Bearer, I won't ask you how old you are; I deſire to know how long you have been an Officer in this City?

Mr. Sword-Bearer, Three and twenty years.

Mr. Serj. Jefferies, I deſire to know in all your time, who ordered Common Halls? Who gave direction for the ſummoning Common Halls?

Mr. Sword-Bearer, My Lord Mayor always.

Mr. Serjeant Jefferies, Did my Lord Mayor uſe to ſend for the Sheriffs, to know of them when they would be pleaſed to have a Common Hall?

Mr. Sword-Bearer, I never knew that the Sheriffs did interpoſe in calling a Common Hall in my life.

Mr. Serj. Jefferies, *Mr. Sword-Bearer*, at ſuch time as the buſineſs was done, when the Common Cryer had Directions for diſſolving the Common Hall, pray who uſed to give theſe Directions all along?

Mr. Sword-Bearer, It was done by the Town Clerk and my Lord Mayor's Officers.

Mr. Serj. Jefferies, Did ever the Sheriffs continue the Hall after my Lord Mayor had Adjourned it?

Mr. Sword-Bearer, Truly I know no ſuch thing.

Mr. Thomſon. Mr. Sword-Bearer, I would ask you one Queſtion; If in caſe the Common Serjeant, or the Common Cryer, or any other Officers do put a Queſtion that the Commons would not have put, who orders them to put the right Queſtion?

Mr.

Mr. Sword-Bearer, I can't ſay any thing to that.

Mr. Att. Gen. After the Common Serjeant comes up and reports what is done, then what doth my Lord Mayor do?

Mr. Sword-Bearer, My *Lord Mayor* and the *Aldermen* go down to the *Huſtings*, and it is declared by the Recorder, or the Common Serjeant, by the order of my *Lord Mayor*. —— I think my *Lord Mayor* went once down to give them ſome ſatisfaction upon a diſpute.

Sir Fr. Winnington. Mr. *Man*, during the Election did you ever hear them Adjourn'd before it was over?

Mr. Sword-Bearer, No, Sir, nor never heard any occaſion for it.

Mr. Williams, The *Common Serjeant* affirms himſelf to be a Servant to the *Commons*, and not to the *Lord Mayor* and *Aldermen*; have you known a Common Serjeant ſay, he was a Servant to the *Commons*, and not to the *Lord Mayor* and *Aldermen*?

Mr. Sword-Bearer, I never was in a Common Hall upon any ſuch diſpute, I am with my Lord Mayor.

Mr. Serj. Jefferies, I have known a Recorder reprehended by a very learned Lawyer, for ſaying, *My Maſters the Aldermen*.

Sir *Fr. Winnington*, I ask you who hath the management of the Common Hall in the abſence of the Mayor?

Mr. Sword-Bearer, I am always here waiting upon my Lord Mayor.

Mr. Serj. Jefferies, My Lord, if your Lordſhip pleaſe, we will reſt here as to point of Right: Now, my Lord in the next place we will come to that which is a more immediate Queſtion before you, and we will prove the manner of it, and the perſons that are guilty; for that is the next ſtep we are to go. —— *Mr. Bancroft.*

Mr. Williams, My Lord, they have laid in the Information, That the Sheriffs are duly Elected for one year next following, from the Eve of St. *Michael*; now prove your Election to be for that year you have laid in your Information.

Mr. Thomſon, My Lord, they have certainly in Fact miſtaken their Information. My Lord, They do declare that the Common Hall was held, according to Cuſtom, For the Election of Sheriffs, to hold that Office from the Eve of St. *Michael*, for the year next enſuing: Now, my Lord, that is not ſo in Fact, nor never was, for the Election is for a year to commence on *Michaelmas* Day. They take on the Eve the Office upon them, but they do abſolutely exerciſe the Office for a Year from that time, from the Eve. Now, my Lord, we ſay, that Day is excluded; we are ſure it is a Common Caſe, it is known very well; as in a Leaſe, the *Habendum* from any Date, the Day of the Date is no part of that Leaſe, it is excluſive and no part of the Term, and therefore, my Lord, if they do not prove it as they have laid it, we hope they will be non-ſuited.

Mr. Sol. Gen. That is another piece of Law.

Mr. Holt, The Eve of *Michaelmas* Day, we make this Objection, and put you to prove it.

Mr. Serj. Jefferies, Give us leave to go on: Gentlemen, let us prove what we think fit, and if we have not made it out, then make your Exceptions.

Mr.

Mr. Holt, Mr. Serjeant, I think it is proper to put it now, for if there be no such Election, there can be no such Riot; for they have made it a Riot in a special manner.

Mr. Serj. Jefferies, *Mr. Holt*, under your favour, it is not a time for it now.

Mr. Att. General, This is the oddest way these Gentlemen take upon them so: I will not prove it; and pray be quiet till I come to my time.

Sir *F. Winnington*, Pray, Mr. Attorney, if we have an Objection to make, if the Court pleases we may be heard.

Mr. Serj. Jefferies, Certainly it was never known, that when Mr. Attorney exhibited an Information, to tell us how to prove it. Surely, Gentlemen, you will give us leave to go on with our Proof, won't yee?

Mr. Molloy. Mr. *Bancroft*, How long have you been a Servant of the City? By whose Order was the Hall summoned?

Mr. Bancroft, By my Lord Mayor's.

Mr. Who hath Dissolved them?

Mr. Bancroft, My Lord Mayor.

Mr. Did you ever know the Sheriffs give any Order for the dissolving of it?

Mr. Bancroft, No.

Mr. Thomson, Did you ever know it dissolved before the business was done for which they were call'd? Did my *Lord Mayor* in your time either dissolve them, or send them going, till the Election was over?

Mr. *Bancroft*, I can say nothing to that.

Att. Gen. Mr. Bancroft, I would ask you this, Sir, Did the Sheriffs ever continue the Hall after my Lord Mayor had dissolved it?

Mr. Bancroft, No, I never knew that in my life.

Sir Fran. Winnington, Mr. *Bancroft*, I would ask you a Question, I don't ask you who calls them, or bids them go home, during the time of the Election, did my Lord Mayor ever meddle?

Mr. Bancroft, My Lord Mayor withdraws.

Sir *F. Winnington*, Who are those among the Commons that manage the business when my Lord Mayor withdraws.

Mr. *Bancroft*, The Sheriffs, and the Common Serjeant, and the *Common Cryer*.

Sir *F. Winnington*, Who manages the Election? Who declares the Election? Who declares who is chosen?

Mr. Banc. When the Election is made below, then the Sheriffs come up, and the *Common Serjeant*, and the *Common Cryer* along with them, and acquaint my *Lord Mayor*, and he goes down, and there doth confirm the Election, and withal, when the work is done he dissolves the Court.

Mr. *Williams*, Did you ever know a Poll for Sheriffs?

Mr. Thomson, Do you take the *Common Serjeant* to be an Officer of the *Commons* of *London*, or an Officer of my Lord Mayor's?

Mr. Bancroft, I cannot be certain what he is.

Mr. Thomson, If in case the Common Serjeant differ from them in declaring the Poll, is it not usual for the Common Hall to order him to put it up again?

Mr.

Mr. Serj. Jefferies, Who does make a Judgment of the Election, the Common Serjeant, or the Sheriffs?

Mr. Bancroft, The Sheriffs.

Mr. Serjeant Jefferies, Do not the Common Serjeant make Obſervation as well as the *Sheriffs?*

Mr. Bancroft, The Sheriffs give their Opinions in it.

Mr. Serj. Jefferies, Now, my Lord, if your Lordſhip pleaſe, if they had done, we would deſire to go on to our Fact, for otherwiſe for ought I perceive, we ſhall be in here till this time to morrow, and they ſay, we muſt not adjourn till the Cauſe is over. —— Mr. Common Cryer; hark you, Mr. Common Cryer, Were you preſent at *Midſummer* Day when this buſineſs happened? Give my Lord and the Jury an account of the carriage then.

Mr. Com. Cryer, I was there at the beginning of the Election, I did make Proclamation, afterwards there was a Poll demanded, and the Poll was begun, and I went home with my Lord Mayor, afterwards my Lord Mayor came back again, and there was a Hubburb; but about 5 or 6 a Clock, my Lord Mayor came down upon the *Huſtings*, and I adjourn'd the Court till another day; I did Adjourn it by his order, according as I uſed to do, and then I went away with my Lord Mayor.

Mr. Att. Gen. But what uſage had you in going out?

Mr. Common Cryer, I went before my *Lord Mayor*, I was not with him.

Mr. Williams, Where was the Adjournment?

Mr. Com. Cryer, Upon the *Huſtings*.

Mr. Williams, Were the Sheriffs Polling the People then?

Mr. Com. Cryer, I don't know that, Sir.

Mr. Williams, Were the Sheriffs near the Huſtings?

Mr. Com. Cryer, I don't know, I ſaw them not.

Sir *Fr. Winnington*, Upon the Election of them, when my *Lord Mayor* came to Adjourn the Court; were the Sheriffs acquainted with it: Where were the Sheriffs?

Mr. Com. Cryer, My Lord Mayor ſent to them.

Mr. Serj. Jefferies, Mr. *Weſton*, Pray will you tell my Lord and the Jury, what Directions you had from my Lord Mayor, and how he was uſed when he came out of the Hall?

Mr. Weſton, My *Lord Mayor* ſent me, my Lord, to the Sheriffs under the *Lumbard-houſe* twice to come up to the Council-Chamber, and they told me: One told me, he was upon the King's Buſineſs; and the other ſaid, he could not come; and about half an hour after, my Lord, Sheriff *Pilkington* came up to my Lord Mayor into the Council-Chamber, and then immediately came down to the Court of Huſtings, and Mr. Common Cryer by my Lord Mayor's order, did Adjourn the Court from *Saturday* till *Tueſday* following, and as we were coming out of the Hall, when Mr. Common Cryer had Adjourn'd the Court, and ſaid, *God ſave the King*, a great part of the Hall hiſs'd; and but that there were ſo many honeſt Gentlemen about my Lord, I was afraid my Lord would have come to ſome miſchief; but coming to go into the Porch-yard, I ſaw his Hat off, and I went to catch his Hat, and caught one of his Officers by the head, that was knocked down, or fell down, that held up

his Train. My Lord, the Sword was at that diſtance, farther then it is between your Honour, and where I ſtand, and crouded far away, and when my Lord came out into the Yard; Gentlemen, ſays he, I deſire you would go home to your Lodgings, and commanded them in the *King's Name* to depart: and ſays he to me, Pray go you back, and let the Sheriffs know, and tell them I have Adjourn'd the Court to *Tueſday*. Upon my Lord's Command I went back to let the Sheriffs know that my Lord had Adjourned the Court till *Tueſday*.

Mr. Serjeant Jefferies, Both of them, both *Shute* and *Pilkington*?

Mr. Weſton, No, *Shute*, t'other was by.

Mr. *Serj. Jefferies*, It was in his hearing, was it not?

Mr. Weſton, It was in his hearing.

Mr. Serj. Jefferies, Did you ſee my Lord Mayor down, and his Hat off?

Mr. Weſton, I ſaw his Hat off, Sir *George*, but I can't tell how it came off.

Mr. *Williams*, You ſay, you ſaw my Lord's Hat off, can you tell whether my Lord was ſo courteous to take his Hat off or no?

Mr. Weſton, I dare ſay, my Lord did not.

Mr. Williams, Did he, or no? I ask you upon your Oath.

Mr. Weſton, I can't tell that, Sir.

L. C. J. I can't think that thoſe Gentlemen were ſo extraordinary civil to my Lord Mayor, that when the *Common Cryer* made Proclamation, *God ſave the King*, that there ſhould be hiſſing; thoſe that hiſſ'd were not extraordinary civil to my Lord Mayor, and I believe you don't think ſo neither.

Mr. Williams, I ask you a Queſtion, My Lord Mayor's Hat was off—

L. C. J. Ay, and it muſt be ſuppoſed it was to Complement thoſe fine men that hiſs'd at *God ſave the King*.

Mr. Serj. Jefferies, My Lord, if your Lordſhip pleaſes, I would deſire to know what account any of them can give of the opinion they had of the King, to be ſure they had a great opinion of his Repreſentative: But my Lord Mayor I find was ſo extraordinary civil, that to this Rabble he muſt not only pull off his Hat, but fling his Hat on the ground to them.

Mr. Thomſon, I ask you whether you know that any of the Defendants in this Information did throw my Lord Mayor's Hat off, or no?

Mr. Weſton, I can't ſay that.

Mr. Serj. Jefferies, It is not a farthing matter.

Sir *F. Winnington*, Here is a mighty Riot upon the Hat.

Mr. Weſton, Now I deſired them to keep back; my Lord Mayor's Friends did preſs back as much as they could to preſerve my Lord Mayor; they preſt more forward, as the other kept back, and I deſired them to forbear; nay, commanded them in the *King's Name*, and upon their Peril and took my Cane to ſtrike at ſome of them.

Mr. Williams, Did you?

Mr. Serj. Jefferies, He ſerved them well enough.

L. C. J. He did ſo. Do you think a Magiſtrate is to be crouded and preſt upon?

Mr. Weſton, I ſtruck at them, and ſaid, Gentlemen, keep back, and entreated them and commanded them, and all would not do.

Mr.

Mr. Serj. Jefferies, I would only ſay this, *Mr. Com. Serjeant*; What did you hear when Proclamation was made to depart?

Mr. Com. Serj. My Lord, I was not in the Hall when Proclamation was made, but I heard them cry out, No *God bleſs the King*; and I heard them cry out, *Down with the Sword*; *No Lord Mayor, no King.*

Mr. Williams, Can you name any Perſon that ſaid this?

Mr. Com. Serj. My Lord, I laid hold on one man that cryed, *No God ſave the King*; *No Lord Mayor*; and the Rabble got him from me, one that I heard ſay ſo.

Mr. Williams, Mr. Common Serjeant, you ſay, you heard this; can you name any perſon?

Mr. Com. Serj. I tell you I caught hold of him, and the Rabble got him from me.

Mr. Williams, Can you name any one?

Mr. Com. Serj. I tell you I cannot.

Mr. Serj. Jefferies, My Lord, I hope that will not much prevail in this place, but I hope it doth juſtifie my Lord Mayor, for endeavouring to diſperſe the Rabble that came together to that height when the King was *prayed for*, to cry out, *No King, No Lord Mayor.* And we don't give this in Evidence againſt any one perſon, for it was done in a tumultuous manner; but they were ſo fond of this man, as that they reſcued him from him; and to fix it upon them, we will prove they were every one of them concerned in the Riot. ——Mr. *Craddock*, What account can you give of this matter?

Mr. Craddock, I was ſtanding at the place where they Poll'd, and my Lord Mayor was coming towards it to proteſt againſt their manner of proceeding; and Sheriff *Bethel* came to me, and ſaid, Reſiſt him, (I think) he hath nothing to do here.

Mr. Serj. Jefferies, That was *Bethel, Slingsby Bethel.*

Mr. Craddock, It was either, *oppoſe*, or *reſiſt him.*

Mr. Sol. Gen. He ſays, he thinks he ſaid, *Reſiſt him*; but he is ſure it was either *Oppoſe*, or *Reſiſt him.*

Mr. *Serj. Jefferies*, Did you ſee *Mr. Jenks* there?

Mr. Craddock, I can't ſay I did: I ſaw *Mr. Jenks* juſt as My Lord Mayor came down, not after.

Mr. Serj. Jefferies, Did you ſee *Mr. John Deagle* there?

Mr. *Craddock*, I did not ſee *Mr. Deagle.*

Mr. *Att. Gen.* How did they uſe my Lord Mayor?

Mr. *Craddock*, I was not very near my Lord; my Lord, I ſtood at the place where the Poll was taking.

Mr.

Mr. Thomſon, Mr. Craddock, We deſire to ask you this Queſtion, that you ſpeak particularly to *Mr. Bethel*, Was it before my Lord Mayor had Adjourn'd the Poll, or after?

Mr. Craddock, It was juſt as my Lord Mayor came to Proteſt againſt the manner of Polling.

Mr. Thomſon, Was the Poll adjourn'd before or after?

Mr. Craddock, It was after.

Mr. Williams, *Mr. Bethel*, you ſay, he ſaid, *Oppoſe*, or *Reſiſt*; did he ſay it before the Poll was adjourn'd?

Mr. Craddock, Yes, Sir, it was before.

Mr. Williams, Can you ſay what the words were?

Mr. Craddock, It was either *Oppoſe*, or *Reſiſt*, *he hath no Authority here.*

Mr. Serj. Jefferies, Which is *George Reeves? Mr. Reeves*, Pray will you tell us what you did obſerve done at this time by *Mr. Pilkington*, or *Mr. Shute*, or any perſon elſe?

Mr. Reeves, I came about 4 or 5 a Clock to the Polling-place where the Coaches uſe to ſtand, and I ſaw the Sword up, I ſuppoſe my Lord Mayor was there, and came to ſtop their Proceedings in Polling; and there was a great Conteſt among them; ſome ſaying, he had nothing to do there: He hath no more to do than I, ſays one; Another cryed, Stop the Sword, ſtop the Sword; and I laid hold of him, and got him a little way, and made account to have carried him to the Sheriffs, and the Lord Mayor, but ſome body got him away.

Mr. Ser. Jefferies, What did you obſerve *Shute* and *Pilkington* do?

Mr. Reeves, They encouraged the People to Poll.

Mr. Jones, After my Lord Mayor was gone?

Mr. Reeves, Yes.

Mr. Jones, Pray you, Sir, did you obſerve either *Mr. Shute*, or *Mr. Pilkington* encourage the People to Hollow or Shout, or thoſe things?

Mr. Reeves, No, Sir.

L. C. J. Heark you Friend *Reeves*, heark you; How do you know that *Pilkington* or *Shute* were Polling? Are you ſure they were Polling after my Lord was gone?

Mr. Reeves, They were at the Polling-places, and they did not go away a great while after that.

L. C. J. From the People that were about them?

Mr. Reeves, No.

Sir *Fr. Winnington*, We agree it in Fact it was ſo.

Mr. Att. Gen. Richard Fletcher, Pray will you give the Court an account of what they did.

Mr. Serj. Jefferies, *John Hill*, What did you obſerve there?

Mr. Hill, About 5 a Clock, my Lord Mayor came to the Hall, there was with him then Sir *James Edwards*, and Sir *William Pritchard*, now Lord Mayor, to the beſt of my memory; and he told them he diſliked their Polling any more: and there came a tall black man; ſays he, *Mr.* Sheriff go on, it is your buſineſs, we will ſtand by you; about a quarter of an Hour after my Lord came out of the Hall to the great Croud, ſome of the People hiſſing, and ſome making a noiſe; and one came to the Sheriffs, and ſays he, Gentleman, why do not you make Proclamation with *O Yes*, and they continued there till towards 8 a Clock.

Mr. Serj. Jefferies, Did you hear no Officer Adjourn the Court?

Mr. Hill, My Lord Mayor went home, I ſaw him within doors, and I came back again.

Mr. Att. Gen. Was there no Proclamation made afterwards?

Mr. Hill, By ſome of the Officers, but I did not take particular notice.

Mr. Att. Gen. Who did you ſee here after you went home with my Lord Mayor, and came back again?

Mr. Hill, I ſaw here Mr. *Robert Key* for one, and I ſaw *Mr. Goodenough* come in between 8 and 9 here in the Hall, and my Lord *Gray* came in, and ſeveral other Gentlemen.

L. C. J. What did they do when they came?

Mr. Serj. Jefferies, Heark you, *Hill*, Was my Lord *Gray* and Mr. *Goodenough*, and Mr. *Key*, were they among the People?

Mr. Hill, After the Sheriffs came up, they went into the *Orphan's* Court, *Mr. Goodenough* came in and out, and my Lord *Gray* went in to them.

Mr. Serj. Jefferies, Did they appear among the People up and down in the Hall?

Mr. Hill, They went through the Hall to and fro.

Sir Fran. Winnington, What was the Chriſtian Name of that *Goodenough?*

Mr. Hill, I know him, he that was Under-Sheriff laſt year: I know him well enough, and he knows me; yes, that is Mr. *Goodenough.*

Lord Gray, I deſire to ask this Witneſs a Queſtion, my Lord.

L. C. J. Let your Counſel ask, my Lord.

Mr. Serj. Jefferies, I deſire to know another Queſtion; Did you ſee Mr. *Corniſh?*

Mr. Hill, I ſaw Mr. Alderman *Corniſh* walk in the Hall, but I can't tell whether he went into the Room, or no. After my Lord was gone, he did come up into the Mayor's Court, and came thorough among the People.

Mr. Thomſon. Hill, you ſpeak of my Lord *Gray*; upon your Oath did you ſee my Lord *Gray* walk to and fro in the Hall, or only came thorough?

Mr. Hill, My Lord *Gray* came in at that Gate, and went thorough the Hall, and went in to the Sheriffs.

Mr. Williams, I would ask you this upon your Oath, Did you ſee him do any thing more?

Mr. Hill, No, I was there to diſcharge my Office.

Lord Gray, My Lord, I own my being there; but only deſire to ask a Queſtion that will clear this matter.

Mr. Hill, I ſaw my Lord *Gray* come up thoſe Stairs, and he went into the *Orphan's Court*.

Mr Serj. Jefferies, How long might that be after the Poll?

Mr. Hill, After the Sheriffs came up I believe it might be half an Hour, or a quarter of an Hour, near an Hour.

Mr. Williams, Did you ſee my Lord *Gray* do any thing more than walk?

Mr. Hill, I ſaw him come to the *Orphan's Court*, and they would not open the Door at firſt; but they ſaid, it is my Lord *Gray*, and then they let him in.

L. C. J. Your own Councel is asking my Lord; I am willing you ſhould ask a Queſtion if your own Councel will let you. Gentlemen, my Lord would ask a Queſtion himſelf, and you won't let him.

Lord Gray, My Lord, Though I do not know this Gentleman at all, yet I will venture to ask him a Queſtion: Pray Sir, did you ſee me ſpeak to any one man?

Mr. Hill, I have anſwered that already, I ſay not.

Lord Gray, Were the Books brought from the Polling-place by the Sheriffs before I came, before that I went in there? ——My Lord, I was there, and ſhall give you an account of it.

L. C. J. It had been better, my Lord, if you had kept away.

Mr. *Serj. Jefferies*, *Fletcher*, pray will you tell my Lord and the Jury what you obſerved that day here after my Lord Mayor was gone and had adjourned the Court.

Mr. *Fletcher*. On the 24*th* of *June* I was here by order of Sheriff *Shute* after my Lord Mayor had adjourned the Court, and it was to call all men that were to Poll to come forward, for the Books were to be ſhut up, and I went away immediately, I was very hot and went away to the Three-Tun Tavern.

Mr. *Serj. Jefferies*, Did you ſee Mr. *Shute* there?

Mr. *Fletcher*. Mr. *Pilkington* was there and Mr. *Shute* too.

Mr. *Serj. Jefferies*. Can you name any body elſe?

Mr. *Fletcher*. No, I can name no body elſe.

Mr. *Serj. Jefferies*. What did Mr. *Shute ſay*?

Mr. *Fletcher*. He ordered me to make Proclamation for all men them that had a right to Poll, to come and poll, for the Books were to be ſhut up.

Mr. *Serj. Jefferies*. Captain *Clark*, pray will you give an account of what you obſerved?

Capt. *Clark*. I came down into the Hall, and I did hear a whiſpering, whereupon I went to guard my Lord Mayor, my Lord Mayor came down upon the *Huſtings*, and Proclamation was made for the adjournment of the Court; whereupon when proclamation, *God ſave the King*, was made, an hundred, &c. I believe more, hiſt at that, I laid hold of one of them, *No King's-man, no Sword's-man*, cryed they; *Sirrah, you are a Raſcal and a Traytor in your heart*, ſaid I, and laid faſt hold on him; but there was a very great crowd, and ſayes one or two, *For God's ſake Captain* Clark, *do you guard my Lord*; There was Mr. *Weſton* and Major *Kelſey*; my Lord, ſaid they, is in danger; ſaid I, *Gentlemen keep by him or go before, I will be in your Rear-Guard*. My Lord Mayor was down upon his Knee, I can't tell how he came down, *Preſs on, preſs on*, this was the Cry, and *God ſave the Sheriffs*. After coming down the ſteps, I preſſed as near as I could to my Lord Mayor to keep them off; *Now*, ſaid I, *this is the time to keep the Rabble off, now face about*; I had my Sword in my hand, and with the pommel of my Sword kept them off; *Before God*, ſaid I, *I will keep you off*; and ſo I waited on my Lord home, and went and drank a glaſs of Sack. About an hour or two hours afterwards I came down to the Hall and found the People ſhouting, *God ſave the Sheriffs, God ſave the Sheriffs*; *What nothing*, ſaid I, *of my Lord Mayor? But*, ſaid I, *this is not a place to quarrel in, let us not quarrel together*. I ſaw the Sheriffs *Pilkington* and *Shute* were concerned in carrying on the Poll, and this they continued to do for ſome time, at laſt, *I am weary of the Hall*, ſaid I, *I will go home*; and this was between 8. and 9. a Clock.

Mr. *Serj. Jefferies*. Can you remember any body elſe beſides the Sheriffs?

Capt. *Clark*. No, Sir, I cannot.

Mr. *Serj. Jefferies*. Can you remember Sir. *Thomas Player*.

Cap. *Clark*. *No I can't*

Mr. *Serj. Jefferies*, Captain *Clark*, Did you know never a one of them that cryed out ſo?

Capt. *Clark*. No, my Lord, I was before Sir *Robert Clayton*.

Mr. *Serj. Jefferies*. Major *Kelſey*, pray will you give my Lord and the Jury an Account of what you ſaw on *Midſummer* day.

Major Kelſey. My Lord, when my Lord came out of the Court I went after, and ſome cryed *Stop him, ſtop him*; but I got between them and ſome of my Lord's Friends kept them off; but when we came juſt to the going out, they gave a ſhout, and I ſaw my Lord Mayor's Hatt upon his Back,

and I can't tell whether he touched the ground with his hand, but I was e'en almoſt down; ſaid I, *Gentlemen do you intend to murder my Lord Mayor?*

Mr. *Serj. Jefferies.* Who did you ſee there?

Major Kelſey. Indeed, Sir, I was almoſt down, and did not ſee their Faces.

Mr. *Serj. Jefferies.* Mr. *Trice Hammon*, I would only ask you, Who did you ſee, who did you obſerve to be there?

Mr. *Hammon.* About 9. a clock at Night, or ſomething before, I ſtood at the Door that leads to the *Common-Pleas*, and there came in Alderman *Corniſh* and *Good-enough*, and Old *Key*, an old white-hair'd man, and by and by my Maſter Sheriff *Shute* came out and told me, *I ſhall give you all Satisfaction by and by; God bleſs you, Mr. Sheriff*, ſaid I; and he went again, and there I ſtaid till they came out, and then he went upon the *Huſtings*, and I went along with him when he came out.

* The ſame-place which before was called the *Orphan's* Court.

Mr. *Serj. Jefferies.* Who went with him out to go to the *Huſtings?*

Mr. *Hammon.* Sir *William Gulſton* and ſeveral other men, there is never a name in the Indictment more.

Mr. *Serj. Jefferies.* None of them that are in the Indictment? name them.

Mr. *Hammon.* I have named them.

Mr. *Serj. Jefferies.* Prethee name them.

Mr. *Hammon.* Mr. Alderman *Corniſh*, both the Sheriffs, my Lord *Grey*, Mr. *Good-enough*, and old Mr. *Key*.

Mr. *Thomſon.* Which *Good-enough?*

Mr. *Hammon.* That *Mr. Good-enough* that ſtands there.

Mr. *Serj. Jefferies.* There is ſuch a noiſe that I did not very well hear that word.

Mr. Hammon. Goodenough, not that *Goodenough* that looks upon me, but he that ſtands behind.

Mr. *Serj. Jefferies.* He falls behind now, but he ran up and down then, and Alderman *Corniſh* was there too.

Mr. Jones. You witneſs, you have named all theſe men, what did *Shute* do, or what did he ſay?

Mr. Hammon. When he came upon the *Huſtings*, he made proclamation himſelf, becauſe one or two refuſed it, he did it himſelf; and after a while he adjourned the Court upon the *Huſtings*; this was on *Midſummer* day.

Mr. Jones. What did he ſay?

Mr. *Hammon.* As the Common Cryer uſually ſayes at ſuch times.

Mr. *Thomſon.* You ſay you ſaw Mr. *Goodenough*, and you ſaw my Lord *Grey*, upon your Oath, can you ſay they did any thing, or was any thing done in abuſe to my Lord Mayor?

Mr. Hammon. They did not tell me, my Lord, what they did.

Mr. Thomſon. I ask you what did they do?

L. C. J. Mighty buſie they were.

Mr. Thomſon. How long was it after my Lord Mayor adjourned the Court?

Mr. Hammon. About two hours.

Mr. *Serj. Jefferies.* So much the worſe.

L. C. J. You muſt underſtand it was ſome time before Mr. Sheriff had made his adjournment, they were buſie till that time.

Mr.

Mr. *Serj. Jefferies.* My Lord, if your Lordſhip pleaſes, I do agree with Mr. *Thomſon*, that the Jury ſhould remember that this was two hours after my Lord Mayor had adjourned the Court.

Lord *Gray.* I deſire, my Lord, I may ask him ſome Queſtions. You ſay you ſaw me go to the Council Chamber, at what time, and who went with me?

Mr. Hammon. A little before Candle-light.

Lord Gray. You ſay all the Company went out with the Sheriffs, and went away.

Mr. *Hammon.* My Lord, I did not ſay you came out.

Mr. *Att. Gen.* My Lord was of the Upper Houſe.

Mr. *Thomſon.* Yes, and may be there again.

Lord *Gray.* I hope I ſhall be there, Mr. *Attorney.*

Mr. *Att. Gen.* It had better you had been ſo then, my Lord.

Lord *Gray.* It will be the worſe for you, I ſhan't lie Perdue for you.

Mr. *Att. Gen.* If you threaten me, my Lord, I ſhall take notice of it. My Lord, I have done you a kindneſs, but if you come under my hands again, I ſhall not do it.

L. C. Juſtice, They would not have it ſaid, *God ſave the King*, and my Lord you were with ſome of thoſe that abuſed him.

Lord *Gray.* After it was over, my Lord.

Mr. *Att. Gen.* You were not within your duty here.

Lord *Gray.* My Lord, it was after the Poll was cloſed.

Mr. S. *Jefferies.* My Lord, I deſire if you pleaſe, what is uſual in all cauſes, that we might go on without any interruption. Let us go on for the King, and then make all the defence you can. Don't think either to hiſs us or threaten us out of our cauſe. Mr. *Higgins*, give my Lord and the Jury an account of what you ſaw or heard.

Mr. *Higgins.* My Lord, I attended with ſeveral of our Company by my Lord Mayor's Coach to *Guild-hall*, and was in the Council Chamber, and he ſent for the Sheriff, after that he went away; and when *God ſave the King* was ſaid, ſaid they, *God ſave the Proteſtant Sheriffs.*

Mr. S. *Jefferies.* I deſire to know Mr. *Higgins* this, what they ſaid?

Mr. *Higgins.* They cryed, *Down with the Sword.*

Mr. *Thomſon.* Mr. *Attorney* is making a Speech to us, I don't know what he hath ſaid.

Mr. S. *Jefferies.* I don't think Mr. *Attorney* thinks you worth a Speech. Mr. *Higgins*, I deſire you to ask you a Queſtion, I ask you this Queſtion upon your Oath, after the adjournment of the Court, and after this very inſolent behaviour of ſome of the Rabble that were there, for I can call them no better, who did you ſee there?

Mr. *Higgins.* After I went home, I went to ſee my Lord ſafe home, and came back again, I ſaw one *Freeman* that they call the *Proteſtant Cheeſmonger*, calling, *To poll, to poll.*

Mr. S. *Jefferies.* Pray who elſe did you ſee?

Mr. *Higgins.* I ſaw Mr. Alderman *Corniſh* come up towards the Sheriffs, Gentlemen, ſaid he, you are doing right.

Mr. S. *Jefferies.* Did you hear Mr. Alderman *Corniſh* ſay ſo? What this Gentleman? Do you know him?

Mr. *Higgins.* Says he to Sheriff *Shute*, You ſhall have all right done to you.

Mr. *Serj. Jefferies.* Who elſe did you ſee there?

Mr. *Higgins.* I ſaw Mr. *Swinnock.*

Mr. S. *Jefferies*

Mr. Serj. Jefferies. Did you ſee Mr. *Key*, did you ſee Mr. *Pilkington*?

Mr. Higgins. I did not ſee Mr. *Pilkington*, I ſaw *Shute*.

Mr. Serj. Jefferies. Did you ſee Mr. *Jekyl*?

Mr. Higgins. Yes.

Mr. Serj. Jefferies. Which of them do you mean?

Mr. Higgins. The Elder man.

Mr. Serj. Jefferies. There is *John Jekyl* the Elder, Gentlemen, and *John Jekyl* the Younger.

Mr. Higgins. I was diſputing with a Fellow that his Toes came out of his Shooes, and had a green Apron, ſaid I, *Are you a Livery man? Yes, I am*, ſaid he. *Surely*, ſaid *I*, *they don't uſe to make ſuch as you are Liverymen.* Saies Mr. *Jekyl*, *He may be as good a man as you, for ought I know.* That was about half an hour after my Lord Mayor went home.

Mr. Serj. Jefferies. What time was the Adjournment?

Mr. Higgins. About 5. or 6. I was ſpeaking ſomething, *You are all in a Riot. This is no Riot*, ſaies Mr. *Swinnock* to me; I can never meet you but you are railing againſt the King's Evidence.

L. C. J. The Kings Evidence, what was that?

Mr. *Williams.* What was done by Mr. *Jekyl*?

Mr. Higgins. He was talking among the People.

Mr. Serj. Jefferies. He did encourage among the reſt.

Mr. *Williams.* You are in a Paſſion now.

Mr. Serj. Jefferies. No Sir, I am not.

Mr. Higgins. He ſeconded Mr. *Corniſh* when he ſaid, *Inſiſt upon your Rights.*

Mr. Serj. Jefferies. Who did ſo?

Mr. Higgins. Freeman, my Lord, that they call the *Proteſtant Cheeſemonger.*

Mr. *Williams.* A very pretty word indeed.

Mr. Serj. Jefferies. Ay ſo it is, he is ſo called, you will give us leave to hear what the Witneſſes ſpeak.

Mr. *Williams.* Another Epithet would do a great deal better.

Mr. Serj. Jefferies. William Bell, what was done upon the ſpot, was there any hurt?

Mr. *Williams.* Do you ſay, upon your Oath, that Gentleman was there?

Mr. Higgins. I have ſeen him in the Balcony.

Mr. Serj. Jefferies. He ſaies he uſes to be there upon publick daies in the Coffee-houſe.——*Bell*, I would deſire to know of you, whether you are able to give an account after my Lord Mayor's Adjournment, who was there; name as many perſons as you can.

Mr. *Bell.* Mr. *Bethel*, and I ſaw Mr. *Corniſh* go through the little Gate into the Yard.

Mr. Serj. Jefferies. Who elſe?

Mr. *Bell.* That is all, Sir. Sheriff *Pilkington* delivered two Poll-Books into my hand.

Mr. Att. Gen. Mr. *Vavaſor*, will you tell my Lord and the Jury what you ſaw?

Mr. *Vavaſor.* It happened thus, Mr. *Hammond* had taken a man upon Execution, who was Bail for a Client of mine who had paid the moneys long before; upon that I came to know who imployed him, and coming here, I found Mr. *Hammond* in that place, and the crowd was ſo great,

Don't

Don't go back again, ſaid he, *for you will go near to be abuſed.* Whilſt I ſtaid there, I asked him what was the meaning; Saies he, *In this Room are the Sheriffs and ſome others caſting up the Poll*; and whilſt I ſtaid, there came in Mr. *Good-enough* to and fro from them, and before they would admit any, they would know their names; there was Mr. *Key*, my Lord *Gray*, and Sir *William Gulſton.*

Mr. Att. Gen. What afterwards?

Mr. *Vavaſor.* Yes, Mr. *Corniſh* was there, he and Sheriff *Shute* came out together, and they went upon thoſe Stairs under the Clock.

Mr. Att. Gen. Who came out with Sheriff *Shute?*

Mr. Vavaſor. Corniſh.

Mr. *Williams.* What *Corniſh?*

Mr. Vavaſor. Alderman *Corniſh.*

Mr. Williams. Very mannerly.

Mr. Serj. Jefferies. His name was *Corniſh* before he was an Alderman.

Mr. Vavaſor. And Sheriff *Shute* told the People, *If they would ſtay a little time, he would give them Satisfaction.* Upon that, Mr. *Corniſh* went through the Company, and when they came to the *Huſtings*, Mr. *Shute* ordered Proclamation to be made, and told them, *Whereas my Lord Mayor had taken upon him to adjourn at 9. a Clock, We the Sheriffs of* London *and* Middleſex, *being the proper Officers, do adjourn it to* Tueſday *at 9 of the Clock.* Upon that an Antient Gentleman deſired they might proclaim the Election. Then ſaies *Shute*, that *I can't do it now, for we have taken very good Counſel for what we do.* Had it not been for Mr. *Hammond*, I had been, I believe, trod under foot ſufficiently.

Mr. Serj. Jefferies. Mr. *Denham*, who did you ſee?

Mr. Denham. I ſaw Sir *Thomas Player* and Mr. *Jenks.*

Mr. Serj. Jefferies. Where did you ſee them pray?

Mr. Denham. In the Yard. I went home with my Lord Mayor, and then I ſaw them. I had a kind of a glance, but I can't ſwear poſitively to Mr. *Jekyl.*

Mr. Serj. Jefferies. Sir *Thomas Player* and Mr. *Jenks*, what did you ſee them do?

Sir *Fr. Winnington.* Heark you, Friend, where was it you ſaw them?

Mr. Denham. In the Yard.

Sir *Fr. Winnington.* What did you ſee them do?

Mr. Denham. Nothing at all.

Mr. Serj. Jefferies. How many People might be there then? two or three hundred?

Mr. Denham. Above a Thouſand.

Mr. Williams. What did you hear Sir *Thomas Player* ſay?

Mr. Denham. Nothing.

Mr. Williams. How far was he from his own Door?

Mr. Denham. On t'other ſide the Hall.

Mr. Williams. A mighty way indeed, a mighty thing. What ſaid Mr. *Jenks?*

Mr. Denham. I can't ſay, Sir, that I heard him ſpeak a word, only in the Tumult.

Sir *Fr. Winnington.* Friend, I ask you this, I think I heard you ſay you ſaw Sir *Thomas Player* and Mr. *Jenks* in the Yard; but you did not ſee them do any thing at all?

Mr. Denham. No.

Mr. Serj. Jefferies. Pray Mr. *Farrington* will you tell my Lord and the Jury what you ſaw after my Lord Mayor had adjourned the Court.

Mr. Farrington. I ſaw there Sheriff *Pilkington*, *Shute*, Sir *Thomas Player*, Mr. *Wickham* the Scrivener in *Loathbury*, Mr. *Jenks*, *Babington*, one *Jennings* an Upholſterer.

L. C. J. Sir *Thomas Player* you ſay in the firſt place?

Mr. Farrington. Yes, and *Wickham*, my Lord, a Scrivener in *Loathbury*.

L. C. J. Who then?

Mr. Farrington. Sheriff *Pilkington* and *Shute*, and Mr. *Corniſh*, Alderman *Corniſh*.

Mr. Serj. Jefferies. Did you ſee one *Deagle* there?

Mr. Farrington. No, Sir.

Mr. Serj. Jefferies. Wickham you ſaw there?

Mr. Farrington. Ay, Sir, I know him very well.

Mr. Thomſon. What is *Wickham's* Chriſtian Name?

Mr. Serj. Jefferies. John Wickham, he goes by that name, it may be he was not Chriſt'ned. Was *Jenks* there, do you know him?

Mr. Farrington. The Linnen-Draper?

Mr. Serj. Jefferies. Ay, very well, he goes by the name of *Francis Jenks*. Did you ſee *Jekyl* there?

Mr. Farrington. I don't know the name, I ſaw a great many I knew by ſight, but not their names.

Mr. Holt. What did theſe Gentlemen do?

Mr. Farrington. I'le tell you, Sir, there was Sheriff *Pilkington* and Sheriff *Shute*, I went in where they were taking the Poll; ſaid I, *Gentlemen, my Lord Mayor hath adjourned the Court, what do you do here? I ſuppoſe it lies in my Lord Mayor's power; if it lies in him to call, certainly he muſt diſſolve.*

Mr. Williams. You argued thus?

Mr. Serj. Jefferies. Pray give us leave to go on.

Mr. Farrington. There was Mr. *Wickham*, and ſaies he, *My Lord Mayor hath nothing to do here, neither will we be ruled by any of your Tory Lord Mayors. This is not the firſt aſperſion*, ſaid I, *that you have caſt upon a Gentleman that loves the Church and the Government eſtabliſhed by Law*; and they fell about me, and had it not been for Mr. *Fletcher* and Mr. *Hill*, I believe they had done me a miſchief; for they trod upon my Toes; who did it I can't tell.

Mr. Serj. Jefferies. But you ſay Sir *Thomas Player* and *Pilkington* and Alderman *Corniſh* were amongſt them.

Mr. Farrington. Yes, Sir.

Mr. Serj. Jefferies. That's enough.—Pray Mr. *Cartwright*, will you tell my Lord and the Jury what you obſerved there, and who was there.

Mr. *Cartwright.* I know the names of no perſons that were there, all that I can ſay was this. As ſoon as my Lord Mayor adjourned the Court upon the *Huſtings*, he came down, and going out of the Hall, he had like to have been thrown down, had it not been for Mr. *Shaw*; and going to ſave my Lord Mayor, I wrenched my back, and I ſpit blood for ſeven daies after.

Mr. *Serj. Jefferies.* Tell that Mr. *Cartwright* over again.

Mr. *Cartwright.* My back was wrenched in ſaving my Lord Mayor, and I ſpit Blood 7 days after.

Mr. *Serj. Jefferies.* Endeavouring to ſave my Lord Mayor his back was ſo wrenched that he ſpit blood 6 or 7 days after. Heark you Mr. *Cartwright*,

wright ever ſince that time, have you found any indiſpoſition?

Mr. *Cartwright*. I have not been my own man ſince.

Mr. *Williams*. He took a Surfeit.

Mr. *Serj. Jefferies*. He took a Surfeit of ill Company I am ſure.

Mr. *Sol. Gen.* Mr. *Shaw*, give my Lord and the Jury an account of what you know.

Mr. *Shaw*. My Lord, my Lord Mayor ſent to the Sheriffs, and ordered them to forbear Polling and come up to the Chamber, and ſent 2 or 3 times; but they denied coming to him, and went on and ordered the Common Cryer to make Proclamation for them to depart; and if they ſtayed that he would look upon them as Rioters; and there was hiſſing and a great deal of crowd, and there was Sir *James Edwards* in the Court, they hunched him with their Elbows, and as his Lordſhip came down going down the Steps there was ſuch a croud, that if I had not catched his Lordſhip in my arms he had fallen upon his forehead, and his hat was off.

L. C. J. Who did you ſee ſo misbehave themſelves?

Mr. *Shaw*. My Lord, I can't tell.

Mr. *Serj. Jefferies*. I think we have now proved it againſt every body we deſign, ſave only againſt Mr. *Deagle*, for we do not now proceed againſt *Dorman Newman* and *Benjamin Alſop*. Now, my Lord, we will only prove againſt *John Deagle*, and then we ſhall have done. Mr. *Kemp* will you tell my Lord and the Jury who you ſaw here. Did you obſerve any particulars after the Court was adjourned?

Mr. *Kemp*. I don't remember I obſerved any one man.

Mr. *Serj. Jefferies*. You don't? Had you any diſcourſe with Mr. *Deagle* at any time?

Mr. *Kemp*, Yes, I had.

Mr. *Serj. Jefferies*. What did he tell you?

Mr. *Kemp*. He did confeſs he was there about 7 a clock at Night.

Mr. *Serj. Jefferies*. He did own he was amongſt them?

Mr. *Kemp*. Yes, with Alderman *Corniſh*.

Mr. *Serj. Jefferies*. What ſay you, Mr. *Rigby*?

Mr. *Rigby*. I ſaw him about 7 aclock.

Mr. *Serj. Jefferies*. Was he in the crowd?

Mr. *Rigby*. Yes, amongſt the People.

Mr. *Serj. Jefferies*. Here is all now, Gentlemen, but *Dorman Newman*, and *Benjamin Alſop*, and we don't go againſt them now. After they had done this, and hiſt at the King, and cried, *No King, no Lord Mayor*, what acclamations went theſe People off with?

Mr. *Hammond*. When the Court was broke up by the Sheriffs, they cryed, *God ſave our true Proteſtant Sheriffs*, and in that manner they followed us.

Mr. *Serj. Jefferies*. What ſay you?

Mr. *Hammond*. They hollowed us home, Sir, as far as fiſhmonger's Hall.

Mr. *Serj. Jefferies*. They began with a hiſs, and ended with a hollow.

Mr. *Williams*. Gentlemen, I am Councel for the Defendants, and my Lord, the queſtion is under favour, Whether theſe perſons taken for Defendants, whether they be guility of this Riot, as it is laid in the Information. We are now upon as ſpecial Caſe, and the queſtion is, Whether guilty, or not guilty. My Lord, in the firſt place for the Cries, what the Cry was, hath been too often mentioned; for thoſe Cries there is nothing at all fixt

upon any perſon that is Defendant; all that is charged upon us, is, That we were in the Hall it ſeems, and becauſe there was this noiſe heard, therefore we muſt be guilty. In this crowd where we are, I hear hiſſing, eſpecially at to'ther end of the Hall, which of us are concerned in it, is a hard matter to judge; it is a hard matter, and it were very well, and it had been very happy, if ſome of thoſe perſons, had been apprehended for their hiſſing. I won't ſay, Gentlemen, that either one party or to'ther in the Conteſt made the noiſe of hiſſing, but there is nothing of it fixt upon any of us. Our Caſe is this, my Lord, with favour, when we have ſtated our Caſe and proved it, we are very innocent, and not guilty of the Riot. In ſome meaſure it hath been ſtated on the other ſide. They ſay in the Information, that the Lord Mayor called a Common-Hall; we don't diſpute that matter, we agree it, that the Lord Mayor of *London* is the Kings Lieutenant but to make ſuch and inference, That becauſe the Lord Mayor is the King's Lieutenant in the City of *London*, that he muſt execute all the Offices in the City, is of no credit in the world; ſo that they are miſtaken in that. Men are bounded in their Offices. The Lord Mayor does not execute all the Offices in the City though he be Lord Mayor. The queſtion between us is this, Whether the Sheriffs, in this caſe did more than their Office as Sheriffs of the City of *London*. There is a ſuperiority due to the Lord Mayor. Another thing we agree with them, we agree it is in the Lord Mayor only to call theſe Com-mon-Halls, and as Mr. Serjeant *Jefferies*, that hath been in a good Office in the City, he agrees it himſelf, and it is apparent, there are ſome fixt days for Election; but yet though there be fixt days for Election, yet there muſt be that Formality of a Summons from the Lord Mayor to the City to meet in order to the Election of Sheriffs for the City of *London* and other Officers, that we do agree that my Lord Mayor hath the Power of calling Common-Halls, and he is the proper Officer. We agree alſo, Gentlemen, that when the buſineſs is done, for there is nothing in vain in nature, and there is nothing in Government that ſhould be in vain, when the buſineſs is done, my Lord Mayor is to bid the Company *Fare them well*, which you may call diſcharging the Common-Hall; we agree that to be commonly and uſually done by my Lord Mayor. But herein we differ, which we are to try, the right of the Office of Sheriffs being the queſtion, it is a queſtion of right, and I don't ſee the Government is concerned one way or other.

L. C. J. Upon my word I do ſee it, and ſurely you muſt be blind, or elſe you would ſee it too. when a company is got together, no *God ſave the King, No King, no Lord Mayor.*

Mr. Williams. My Lord, I thought I had opened it plainly, I ſpeak before a great many people, I deſire, my Lord, this may be very well heard. I thought I had ſaid very well, from all theſe Noiſes and Cries we are all innocent, we juſtifie nothing of it, only we would have been glad if they had apprehended any man that made that noiſe; it had been a very happy thing if one of them, or all of them had been Defendants to be tryed. My Clients are Defendants, they are innocent and unconcern'd, it is a Crime committed by ſome where theſe Gentlemen were by, but they are innocent; we hear hiſſing at t'other end of the Room, it was an ill thing, and of a Treaſonable complexion; but for theſe Gentlemen they are unconcern'd. The Queſtion between the Lord Mayor and the Sheriffs of the City, is a Queſtion of Right between the Mayor and Sheriffs, Whether it be the Prerogative of the Mayor, or the Right of the Sheriffs? and I ſay,

under

under correction again, this Queſtion, Whether the Lord Mayor of *London* may adjourn the Common-Hall to a certain day, is a queſtion of Right Whether he can do it or the Sheriffs; And I don't ſee what conſequence it can have upon the Government. The Lord Mayor is the King's Deputy, the Sheriffs they are the King's Officers, and the Queſtion is, Whether it be in the Lord Mayor or the Sheriffs of *London* to adjourn it? They are very good Subjects, I am ſure this very Year they are ſo; therefore I wonder at theſe Gentlemen of the King's Counſel, that will meddle with the Government, and ſay the Government is concerned in this; I appeal to any man if there be any more concern in this. I ſay this, here was a Common-Hall call'd, grounded upon Cuſtome in the City of *London*, and here is a ſingle Queſtion, Whether theſe Sheriffs did any more than their duty; whether they were guilty of a Riot in continuing this Poll. Gentlemen, this is the method we ſhall take. Firſt of all, it is not proved, that ever the Lord Mayor before this time did ever attempt to adjourn a Common-Hall to any certain time; all the Witneſſes that were call'd, that pretend to be knowing in the Cuſtomes of *London*, the Common Serjeant himſelf, he does not pretend that it was adjourn'd to a day.

Mr. Serj. Jefferies. You miſtake. Sir *Robert Clayton* did from *Saturday* to *Munday*.

L. C. J. What need if there had been no Preſident; if ſo be an Aſembly of People are met about buſineſs, and they can't make an end of it in areaſonable time, muſt they be kept all Night till they have? What Argument will you make of it? If a man may call and diſſolve, do you think if there be occaſion, but, by the Law it ſelf, that he may adjourn to a convenient hour?

Mr. Williams. That will be a queſtion between us. *My Lord*, what I ſay certainly of Fact carries ſomething in it.

L. C. J. Not at all.

Mr. Williams. Then, *my Lord*, I have done.

L. C. J. Give us leave to underſtand ſomething, Sir.

Sir Fr. Winnington. My Lord, by your Lordſhips favour——

L. C. J. I ſpake to Mr. *Williams*, and he takes it ſo haihouſly at my hand that Facts ſignifie nothing; I do again ſay it, The fact ſignifies nothing. For I tell you again as Law, it is not denied the Lord Mayor may call, he may diſſolve; then I ſay by Law, without Fact, by Cuſtom, he that can both call and diſſolve, may adjourn to a convenient time. Do not Judges of Aſſize in all the Counties of *England* do it, when a Cauſe is appointed to be tryed in ſuch a County ſuch a day, and it may be it is tryed 3 daies after; and yet I pray find me the Statute or Commiſſion, or find me one thing or another beſides the very Law it ſelf, that doth give them leave to adjourn from time to time.

Mr. *Williams.* My Lord, there is a mighty difference, but I am only upon fact, theſe Gentlemen will agree it was never practiced before Sir

Robert Clayton's time, what the conſequence in Law will be, that is in your Lordſhips Breaſt, I am now ſpeaking upon the Evidence that this hath not been practiced. What the Law is, for that we are to have your Judgment, which I humbly crave, I will be judged by Gentlemen that are my *Seniors* and better read in this matter; but, my Lord, a man may have a power of calling and diſſolving, and not of adjourning, it may be ſo. But, my Lord, admitting it to be ſo for this time, yet, my Lord, whether we are guilty of a Riot, take the Circumſtances of our Caſe. Whether the Right of adjourning be in the Sheriffs, yea, or nay, it is a queſtion of Right, and I had rather apply my ſelf to your Lordſhip than to the Jury. If there were a Queſtion of Right between the Lord Mayor and the Sheriffs, it may be admitted by our Councel that it was his Right to adjourn the Court, and probably the Sheriffs might be in the wrong, and the Lord Mayor in the right. The Lord Mayor adjourns the Court, and they continue it, they go on with the Poll, and go on with the execution of their Office as they apprehended, if they were ſtill for their Right, I hope your Lordſhip will not make this a Riot. *My Lord*, for the Circumſtances that followed, the noiſe that was made, which I don't love to mention, if, I ſay, they were guilty of this, I am ſilent; but if they did no more, as I hear no more proved upon them, then continuing the Poll, then, I ſay, it will be very hard to make them guilty of the Riot. And another thing is this, *my Lord*, we all know, if there were a thouſand Electors, any man knows, that when there is a queſtion upon an Election, it is impoſſible ſuch a thing ſhall be carried on but there will be reviling, ill language, and the like; and to turn all theſe things to a Riot, a thing ſo common from the beginning of Elections to this time, if there be diviſion and polling, there will be ſomething you may turn to a Riot. But I ſay this, they have not inſtanced in any one Defendant, that he was guilty of any one particular act that amounted to a Riot in it ſelf, they have not inſtanced in one. They ſay of Alderman *Corniſh*, That he was of the ſame opinion with the Sheriffs, that they did inſiſt upon the Rights of the City, he took it to be the Right of the Sheriffs; *And*, ſaies one of them, *I will ſtand upon it*, *Bethell* that had been Sheriff. Now we will call our Witneſſes, we will prove what hath been the conſtant practice in the City, we will prove the methods of adjournment; and, *my Lord*, this is to be ſaid which your Lordſhip will obſerve, That the Sheriffs adjourned the Court to the very ſame time with my Lord Mayor; ſo that it was no more than to bring the matter to an iſſue in this caſe.

Sir Fr. Winnington. Spare me a word in this caſe, *my Lord.* There is no Evidence produced againſt *Trenchard*, nor againſt *Jekyl* the Younger, nor againſt *Biſeld*, nor of theſe there is no queſtion but they are as if they were out of the Information, I muſt beg leave for a word or two as to thoſe Defendants, that they have offered ſome Evidence againſt. The queſtion is now before your Lordſhip, Whether they are guilty of a Riot or no? *My Lord*, for ought I ſee, it will ſtand upon a nicety of Judgment; yet if there be not matter enough, Gentlemen, to make the Defendants guilty of a Riot, then it will clear the Defendants. My Lord, as to thoſe words, that really were words that ought to be inquired into, who they were that ſpoke them in relation to his Majeſty; I think it was a very ill thing of thoſe men

men that saw them, that they would not neglect all manner of busines to seize them, I think it was a duty to fix upon them: but, *my Lord*, there is no Evidence to put it upon any of the Defendants. *My Lord*, that being pared off, now the question is, That the meeting together was lawful, that is agreed; then when they came together, *my Lord*, I do think that if we do rely upon the Evidence, it will be a mighty hard thing to make this a Riot, setting aside those villainous words that were spoken, which cannot relate to the Defendants. Suppose, *my Lord*, that among the Electors, the whole Common-Hall of the City, there doth a dispute arise before the Election is over concerning the adjournment of the Sheriffs or the Lord Mayor, some men are of one opinion, some are of another; and their Evidence, Mr. *Peter King* and another, Attorneys, I asked the question several times, *Did the Lord Mayor of London, ever interpose or concern himself in adjourning the Hall, till the Election was quite finished?* and they said *No*; Then, my Lord, I must say it as to these particular Defendants, in such a concourse of People as was met there, it is as slender a proof of a Riot as ever was, and intimates that the Citizens of *London*, they that happen not to be the greater number, they that lose the Election, may be found guilty of a Riot in chusing other Officers as well as in the business of Sheriffs; which being so tender a point, I think it will be a very severe exposition, my Lord, to make this a Riot. But now for the Matter, we will call to your Lordship several Witnesses, men that have been Magistrates in the City, that it was alwaies looked upon, that my Lord Mayor, as he is the Principal Magistrate, he gives notice for Common-Halls; and when the several Electors are met, and the business is over, he directs them to go home, and dissolves them; but my Lord Mayor meddles not in every little administration of the Election of Officers, but leaves them to inferiour Officers, the Sheriffs and others, that is their duty, my Lord, with submission, they Poll them and send them home during the Election, therefore by Law they do this; for, my Lord, the Custome of a City, and the Custome of a Place, is the Law of the place; and if the Custome of the place hath been, that the Sheriffs have been the persons that have managed it, it is their Right; but the Common Serjeant he saies he hath the sole thanagement of it; Then if it be as Mr. Common Serjeant saies, if that must go, upon my word, Gentlemen, your Priviledges are reduced to a little compass.——

L. C. J. They did confer one with another who they took to have the most Voices, and so reported it, not that he did claim any thing in his own right, but as an Officer of the City. Now it is plain, and I think there is no inconveniency falls upon it, if an Officer acquaints my Lord Mayor, according to the best of our Judgment we think such a man hath the most Voices, that does not give him a right for him to make an Officer, not at all.

Sir *Fr. Winnington.* I say what he said in his Evidence; but one of the Attornies swears that they have all equal power, I wonder then who should make an end of the business. My Lord, we will call to your Lordship Ancient Citizens, that have been frequent at Elections, to give you an account that the Sheriffs always had the management, that my Lord Mayor never concerned himself, till he had notice it was determinable;

termined; and if that be ſo, and the practice hath been ſo, then I don't ſee under favour my Lord, how they will make this a Riot; that is the Caſe.

Mr. *Thompſon.* Sir. *Robert Clayton,* will you pleaſe to tell my Lord and the Jury in what manner the Election of Sheriffs hath been, and how the Mayors have uſually left it to the Sheriffs in that caſe.

Sir. *Robert Clayton.* My Lord, I have never heard this matter hath been in queſtion till of late, ſo I cannot declare much upon my own knowledge how the truth of fact is or ſhould be, I can only ſay this, what the practice hath been. When I came to the Chair I did endeavour to know my duty and to do it. The firſt time I had occaſion to take notice of this matter was in the year of my Mayoralty, I did then according to cuſtom Summon a Common-Hall, when I had ſummon'd it, there was a perſon preſented to the Hall I had drank to; the Hall did refuſe him, and there was a great noiſe and hubbub upon it, and we found a way to accomodate that matter, and left them to chuſe two Sheriffs for themſelves. I retired into this Court together with my Brethren and Mr. Recorder, that was then, We ſent for the Sheriffs up to examine the matter, they told us that they could not agree the thing, there was 4 Perſons in Nomination, but they had granted a Poll. After this we went down into the Hall, of that Mr. Common Serjeant hath given ſome account, and Mr. Serjeant *Jefferies,* I ſhall to the beſt of my memory give the beſt account I can of it, I ſhall only tell you what I did underſtand to be my duty, I do not determine what the practice was, but what I underſtood to be my duty. When we came down into the Common-Hall to declare how the matter ſtood, and that a Poll was agreed upon and granted, we would have adjourned the Court to a longer time, but the people cryed out to go to the Poll preſently. I was, as you have been told by Mr. Common Serjeant, to go to the Tryal of one *Giles* upon the Aſſaſſination of *Arnold,* to the *Old Baily.* I did twice or thrice attempt to get down out of the Hall through the crowd, and was repulſt, the croud was ſo great I could not get through, but was fain to retire back again to the *Huſtings* as I remember two or three times. There might be ſome ſuch diſcourſe as Mr. Common Serjeant hath ſaid, but thus far I can remember, that I did both by my ſelf and the Common Serjeant ſignify to them the buſineſs I was about, and ſo many Aldermen as made up a Bench together with Mr. Recorder to manage that buſineſs, muſt go, and that I would leave the Sheriffs to manage the Poll, which I thought was their duty.

Mr. *Thompſon.* Did you take it to be their right?

Sir *Robert Clayton.* I did not apprehend it to be my right then.

Mr. *Thompſon.* And therefore you left it to the Sheriffs as their right.

Sir *Robert Clayton.* I left it to the Sheriffs to manage the ſame.

Mr. *Williams.* Sir *Robert Clayton,* I ſuppoſe when you were Lord Mayor you were as much for the honour of the Chair as any man, you would not have quitted the right of the Chair.

Sir

Sir *R. Clayton.* I did not, there was a Trial of me in that caſe.

Mr. *Williams.* Now Sir, for adjourning the Poll, did you know any ſuch queſtion whether a Poll was to be adjourn'd upon the Election of any Sheriffs?

Sir *R. Clayton.* There hath been a great noiſe about adjournments of late. That Poll was the moſt litigious of any that I know we have had before or ſince, that was adjourn'd for ſeveral days.

Mr. *Williams.* Who adjourn'd that Poll?

Sir *R. Clayton.* The Sheriffs did adjourn it I think. Gentlemen, I do think the Sheriffs did adjourn it, I was not preſent.

Mr. *Att. Gen.* Sir *Robert*, don't ſerve the Court thus.

Mr. *Williams.* Don't brow-beat our Witneſſes, Gentlemen. I know, Mr. *Attorney*, you are an example of fair practice; We are examining our Witneſſes.

Sir *R. Clayton.* Pray, my Lord, let me explain my ſelf, I ſhall let Mr. Attorney General underſtand me. I did never appear at *Guild-hall*, unleſs upon the account of a Court of Aldermen I did never appear at *Guild-hall*, but the firſt day we had Conſultations here in this Court about the adjournment, and upon the *Huſtings* about going about the buſineſs we intended, and the Hall was very intent upon the Poll; I twice attempted to go out, and could not get out, whereupon we were fain to acquaint the Hall as well as we could for the noiſe, of the buſineſs we were to go about, and they let me go. I left behind the Sheriffs and the Common Serjeant; how long they ſtayed I can't tell, I can upon my own knowledge give no account of them. I was not conſulted to the beſt of my knowledge afterwards, nor did give any particular directions for adjournment. I did not do it for this reaſon, I did not look upon it to be in my power: if I had ſuch a power, I did not underſtand it.

Mr. *Williams.* Sir *Robert*, how many days do you think that Poll continued?

Sir *R. Clayton.* About ſix days.

Mr. *Williams.* Of thoſe ſix how many days were you preſent?

Sir *R. Clayton.* I did not underſtand it to be my duty, and ſo did not look after it.

Mr. *Thompſon.* Sir *Robert Clayton*, I deſire to ask you a queſtion, as to this matter you have given in evidence; do you give it to the beſt of your remembrance or poſitively?

Sir *R. Clayton.* I tell you I ſpeak to the beſt of my remembrance every thing that I ſay.

Mr. *Att. Gen.* Sir *Robert Clayton*, I beg your favour, to the beſt of your remembrance is no evidence, it is ſo lately; if you pleaſe, Sir *Robert*, you are to give evidence of a thing about three years ago. I ask you upon your Oath who were your Sheriffs?

Sir. *R. Clayton.* Sir *Jonathan Raymond* and Sir *Simon Lewis*.

Mr. *Att. Gen.* I would ask you then a plain queſtion, Sir *Robert*, becauſe you come in with your remembrance; did you give expreſs direction to the Common Serjeant or the Sheriffs to adjourn upon your oath?

Sir *R. Clayton.* I muſt, Mr. Attorney General, by your favour take in my remembrance.

Mr. *Att. Gen.* Then you are no evidence. Sir *Robert*, did you give directions or not, upon your oath?

Sir *R. Clayton.* I can't ſay it was given.

Mr. *Att. Gen.* Did you, or did you not?

Sir *R. Clayton.* My Lord, I hope I have ſpoke *Engliſh* in the caſe, we did diſcourſe of the Adjournment in this Court, I believe it was diſcours'd below; but as I ſaid I was engaged to go to the *Old Bayley*, and I would leave that matter to the Sheriffs, whoſe proper buſineſs I underſtood it to be.

Mr. *Att. Gen.* I ask you Sir *Robert*, one of the plaineſt queſtions that ever was asked; I ask you whether you gave the Sheriffs or the Common Serjeant expreſs order to adjourn?

Sir *R. Clayton.* I believe I did not.

Mr. *Att. Gen.* Did the Sheriffs tell you they had a right then?

Sir *R. Clayton.* There was no diſpute who had the right.

Mr. *S. Jefferies.* Sir *Robert Clayton*, if you pleaſe I would ask you a queſtion or two. Do you remember that the Court was adjourn'd while you were there or not? Do you underſtand the Queſtion, Sir *Robert*? Do you remember the Common Hall was adjourned while you were there.

Sir *R. Clayton.* Yes, Sir, If you give me leave to explain my ſelf, I think the Common Hall was adjourn'd; it was declared, but there was ſuch a noiſe in the Hall that the people could not hear it.

Mr. *S. Jefferies.* But there was a ſort of Declaration made by your ſelf, you did make an adjournment; but the noiſe was ſuch that the people did not hear: and if you remember, there was a perſon affronted one of the Sheriffs, and I committed him to cuſtody upon it.

Sir *R. Clayton.* We deſired to adjourn for an hour or two, that we might go and refreſh our ſelves.

Mr. *S. Jefferies.* Then you remember there was an adjournment. I ask you whether it was appointed to be made by you or the Sheriffs?

Sir *R. Clayton.* Truly I believe it was appointed by me.

Mr. *S. Jefferies.* Sir *Robert*, by asking you a queſtion or two, Sir *Robert*, I know I ſhall bring ſome things to your remembrance.

Sir *R. Clayton.* My Lord, I don't know I have given any great occaſion of Laughter to my Brethren; theſe Adjournments have been very common with us, and I might agree to it or order it or direct it, but one of them I believe I did, or two of them.

Mr. *S. Jefferies.* Sir *Robert*, I would only have a queſtion or two asked, and I know by asking a queſtion or two I ſhall bring things to your memory, which I am ſure you cannot eaſily forget: Were there directions given for Proclamation to be made for all Parties to depart in the King's name?

Sir *R. Clayton.* I believe there might.

Mr. *S. Jefferies.* The next queſtion is, whether the Sheriffs ordered that Proclamation to be made for all Parties to depart?

Sir *R. Clayton.* If it were done while I was preſent, I make no doubt in the caſe, but I did direct it, I make no queſtion of that.

Mr. *S. Jefferies.* Very well now, Sir *Robert Clayton*, we are got to an adjournment to a time by your direction, and proclamation by your direction. Now I will ask another queſtion upon your oath; was not you in the Common Hall and gave order for an adjournment till Monday following, for I remember that day to be *Saturday*?

Sir *R. Clayton.* Truly I do not remember that.

Mr. *S. Jefferies.* You do not? Sir *Robert*, you know very well, that the Sheriffs of *London*, when the *Lord* Mayor and Aldermen came back to the *Huſtings*, the Sheriffs ſit remote one on the right hand and the other on the left, furtheſt from the Lord Mayor, ſo that all the Aldermen ſit neater to the

Lord

Lord Mayor than the Sheriffs do; did you mind that the Sheriffs came to you to ſpeak to you any thing of an Adjournment?

Sir *R. Clayton.* I never ſaw it.

Mr. *Jones.* I would ask you a Queſtion or two, you know this Gentleman, don't you? (*pointing to the Common Serjeant.*)

Sir *R. Clayton.* Yes.

Mr. *Jones.* Did he attend the Court at that time?

Sir *R. Clayton.* Yes.

Mr. *Jones.* Sir *Robert*, I ask you a fair queſtion, did you lay any command on him to adjourn the Hall at that time from *Saturday* till *Monday*.

Sir *R. Clayton.* Pray my Lord give me leave to anſwer Mr. *Jones* in my own way.

Mr. *Jones.* My Lord I am in your judgment, it is a fair queſtion within his own Recognizance lately done, he ought to anſwer poſitively Yes or No.

Sir *R. Clayton.* Am not I upon my Oath, can you tell me what I can ſay?

Mr. *Jones.* Ay or no, any honeſt man wou'd do it.

Sir *F. Winnington.* All Witneſſes anſwer their own way, don't they?

Mr. *Jones.* Let him anſwer then his own way.

Mr. *Att. General.* My Lord, you know there is a rule in Chancery, if it be a matter within ſeven years, if it be not anſwered poſitively it is no anſwer; if one asks a Witneſs a queſtion that lies within a little while, if he will not anſwer either affirmatively or negatively, he is no Witneſs.

L. C. J. I can't tell, Mr. Attorney.

Mr. *Jones.* Will you anſwer or no Sir *Robert Clayton*, whether you commanded the Common Serjeant to go and adjourn the Hall or no?

Sir *R. Clayton.* I don't remember that I did.

Mr. *Jones.* Then I only ask you this further queſtion, whether Mr. Common Serjeant did not tell you that it was not his proper buſineſs to do it, and that unleſs you would lay expreſs Commands upon him, and put the very words in his mouth, he did deſire to be excuſed, and did he not ſtand there? (*pointing to the Bar.*)

Sir *R. Clayton.* I have heard, Sir, what Mr. Common Serjeant did ſay, and I cannot charge my memory with it, but I have that charity for Mr. Common Serjeant to believe there might be diſcourſe to that purpoſe.

Sir *F. Winnington.* Mr. *Love*, in all your experience what do you remember?

Mr. *Williams.* How long have you known *Guild-hall* and Elections?

Mr. *Love.* I ſuppoſe, my Lord, theſe Gentlemen don't expect I ſhould ſay any thing that was done that day; but, my Lord, all that I ſuppoſe you expect from me is what I did obſerve to be the practice of the City; to the beſt of my remembrance I ſhall give you an account. My Lord, about 22 years ago, I did obſerve the practice to be this, when I was call'd into this Office of Sheriff, I took it as a thing for granted, that it was the Sheriffs Office to manage the Common Hall, that I did, as my Lord Mayor's was to have a Sword born before him; I have received it by tradition from all before me, and my own experience. My Lord, I remember when we came to chuſe Sheriffs upon Midſomer day, after the Lord Mayor and Aldermen had been there, my Lord Mayor ſaid to me and my Brother Sheriff, Gentlemen, look to your Office; we accordingly went to it and choſe two Sheriffs, one Gentleman that had been drank to by my Lord Mayor, I think

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it was Alderman but notwithstanding that drinking to him, we took no notice of that as a ceremony, he was put in nomination among others, and being a senior sitting Alderman, we returned him; otherwise, my Lord, I assure you I would not have returned him notwithstanding the drinking. After once that the Lord Mayor and Aldermen withdrew to go to the Council Chamber, they said to us, Now Gentlemen, look to your Office.

Mr. *Thomson*, What was your Office?

Mr. *Love*. To chuse Sheriffs.

Mr. *Thomson*. Did my Lord Mayor meddle with the election, or left it to the Sheriffs?

Mr. *Love*. Left it to the Sheriffs.

Mr. *Williams*. What was your opinion, Sir, was it in the Lord Mayor to take the Poll, or the Sheriffs?

Mr. *Love*. Truly Sir, I am not a competent Judge of whose right it was, but if my Lord Mayor had gone about to meddle in it, I should have prayed my Lord Mayor to meddle in his own Office and let me alone with mine.

Mr. *Attorney*. Yes, Mr. *Love*, you were then the Tribunes of the People.

Sir *F. Winnington*. Here are some say the Common Serjeant and the Common Cryer have a power, nay, the whole power of ordering the Hall during the Election. What is the Office of the Common Serjeant there.

Mr. *Love*. Truly, Sir, I look upon the Common Serjeant and the Common Cryer as Persons left to assist us, because they would not put us to the trouble of crying *O Tes* our selves; and if any Common Serjeant or Common Cryer had durst to put a question without my direction, I would have known whether he could or no.

Sir *F. Winnington*. Mr. *Love* was it ever dicours'd to you when you were Sheriff, or before or since, that ever my Lord Mayor did interpose before the Election was over?

Mr. *Love*. Since I was discharged of being a Magistrate, I never was at a Common Hall since. I have spent my Money for the Cities service, but never got a peny by them; I never heard that ever the Lord Mayor till these late times interposed, but that the Sheriffs managed the whole business of chusing Sheriffs.

Mr. *Att. Gen.* Mr. *Love*, I desire to have a word with you, you speak of the time of your reign, I would ask you a plain question, was it before the King came in?

Mr. *Love*. It was that year the King came in.

Mr. *Att. Gen.* Was you chosen before?

Mr. *Love*. Yes, I was.

Mr. *Att. Gen.* Do you remember an Act of Parliament in 48, then in force, of shutting out my Lord Mayor?

Mr. *S. Jefferies*. I would ask him a question or two. Hark you, Mr. *Love*, let me ask you a question or two.

Mr. *Love*. Sir *George*, I would give Mr. *Attorney* an answer.

L. C. J. What would you make of it? if you ask him of an Act of Parliament it is something.

Mr. *Att. Gen.* You speak of a time when my Lord Mayor had no more to do with it than I had. There was an Ordinance of Parliament, did you never see that?

Mr. *Love*. To the best of my remembrance I never saw it in my life.

Mr.

Mr. *Att. Gen.* Nor heard of ſuch a thing?

Mr. *S. Jefferies.* Hark you, Mr. *Love*, I perceive you would have diſputed with my Lord Mayor, who was the Lord Mayor that you talk of?

Mr. *Love.* Sir *Thomas Allen.*

Mr. *S. Jefferies.* Now I would deſire to know whether you remember the City before the King came in?

Mr. *Love.* For a little while.

Mr. *S. Jefferies.* Do you remember any thing of that cuſtom of the Lord Mayor's drinking to Sheriffs, was not that uſed before the King came in?

Mr. *Love.* A long time.

Mr. *S. Jefferies.* It is well enough; a long time.

Mr. *Williams.* My Lord, we have ſeven or eight more to the ſame purpoſe, but we are ſatisfied with theſe Gentlemen: we will prove if there was any thing like a Riot, we will prove my Lord Mayor and thoſe that were with him were the Authors of it.

L. C. J. When multitudes of people are gather'd together upon a lawful occaſion, ſuppoſing that they had a right to be there, I do ſay that in that caſe it would be much a mitigation of the fine, ſo for this ſame riot; but on the other ſide you muſt know that theſe men that do it, it doth not excuſe them, for *ignorantia juris* is not an excuſe. It is true, if they had had a lawful occaſion to continue to do it, but in truth they had not, that will excuſe them *à tanto*, but *non à toto.*

Mr. *Holt.* My Lord, I beg to put in this caſe, there is a great deal of difference where a perſon does claim a right to himſelf, and does an extravagant action. Now my Lord theſe perſons did claim a right to themſelves to continue the Common Hall, and that it was not in my Lord Mayor's power to adjourn it without them: now, my Lord, they claimed this right, if they uſed no violence, that is excuſable. If I ſhould claim a right to another man's eſtate, though I have no Title, and ſay I have a right, and give it out in ſpeeches, no action lies againſt me; but if I do an extravagant action, and ſay another man hath a title, there lies an action againſt me.

L. C. J. Now go to your fact.

Sir *F. Winnington.* My Lord put a point to us, and we need not call more Witneſſes.

L. C. J. I don't ſpeak to hinder you from calling your Witneſſes.

Sir *F. Winnington.* I put this caſe, we undertake to prove that it was always looked upon, that it was the right of the Sheriffs: ſuppoſe, my Lord, upon the diſpute it ſhould be found that the opinion of the Jury ſhould be otherwiſe, will this turn to an illegal act?

L. C. J. Call your Witneſſes.

Mr. *Wallop.* I beſeech your Lordſhip I may put one caſe in this point, in a point of right if they have a probable cauſe to inſiſt upon it. Suppoſe I ſend 40 men to a wood, and take a Carr or a Team, if they be a competent number to cut down wood, if we are miſtaken in the title, that is no Riot. *Lambert* puts the caſe.

L. C. J. But what if I had ſent a great many men to cut down the whole Wood?

Mr. *Williams.* We will call ſome Witneſſes that will take us off from the Riot thus, if ſo be we can excuſe our ſelves of the diſorder, and put it upon my Lord Mayor, then we are innocent.

L. C. J. Very well if you do that.

Mr. Mr. *Sibley*, are you acquainted with the manner of the Election of Sheriffs, how long have you known it?

Mr. *Sibley*. I have been of the Livery ever ſince 39, in all my time, I ſpeak Gentlemen, to the beſt of my remembrance, it hath been the cuſtom in all my time, except here of late, that the Sheriffs of *London* have had the management of the Election.

Mr. Did my Lord Mayor ever interpoſe till the Election was over?

Mr. *Sibley*. I never knew my Lord Mayor interpoſe till lately.

Sir *F. Winnington*. Did you ever hear my Lord Mayor pretend to it till of late?

Mr. *Sibley*. No, my Lord.

Sir *F. Winnington*. Did the Mayor uſe to be preſent at any Election during the Election?

Mr *Sibley*. I have been moſt commonly there.

Sir *F. Winnington*. But the Mayor, would the Mayor be there?

Mr. *Sibley*. The Mayor and Aldermen went off the Bench.

Sir *F. Winnington*. Who managed the Elections?

Mr *Sibley*. The Sheriffs.

Sir *F. Winnington*. Were the Common Serjeant and the Common Cryer there?

Mr. *Sibley*. The Common Serjeant and the Common Cryer are always there.

L. C. J. I pray this, you have known the City it ſeems a great while, I would ask you this, pray who did call the Aſſembly that was to chuſe the Sheriffs, did the Sheriffs or the Lord Mayor?

Mr. *Sibley*. We commonly received the Tickets by the Officers of the Companies.

L. C. J. Did the Officers of the Companies ſummon the Aſſembly? Hark you, pray Sir, recollect your ſelf, Do you take it that the Officers, the Beadles it may be of the ſeveral Companies, did they ſummon the Liverymen, and ſo a Common Hall was call'd together, was it ſo in your time?

Mr. *Sibley*. It hath been commonly ſo, we have received Tickets from the Beadle of the Company.

L. C. J. And my Lord Mayor had nothing to do with it then?

Mr. *Sibley*. What order the Maſters and Wardens had from my Lord Mayor, I never inquired into that.

L. C. J. When the Hall was diſſolved, who ordered Proclamation to be made, the Sheriffs or the Lord Mayor?

Mr. *Sibley*. My Lord Mayor hath not uſed to be there.

Mr. *Thomſon* When they had done, they went away. He won't trouble your Lordſhip.

L. C. J. Pray had my Lord any hand in ſummoning, did he direct the ſummoning of them?

Mr. *Sibley*. It is more than I know.

L. C. J. You bring a Witneſs that knows nothing of the matter.

Mr. *S. Jefferies*. Mr. Deputy *Sibley*. Give me leave to ask Mr. *Sibley* a queſtion or two, I ſhall ſet him to rights preſently. Mr. *Sibley*, if I be not miſtaken you are one of the Company of Tallow-Chandlers, and you have been Maſter of the Company, and you have been Warden of the Company. You very well know what directions are given to the Beadle are generally by the Maſter or Wardens, pray upon your Oath when you were Maſter or Warden, was there ever any Precept ſent to you to ſummon a Common Hall?

Mr.

Mr. *Sibley*. Indeed I don't remember that, Sir.

Mr. *Thomſon*. If your Lordſhip pleaſe, we have done with our evidence, I would beg your Lordſhips opinion in it.

Sir *F. Winnington*. We do admit, my Lord Mayor ſummons the Court.

L. C. J. But you bring a Witneſs that knows nothing in the world of it, but yet you would have it taken for Goſpel, that the Sheriffs had all the management before that time 40 years together, till now very lately. But when he comes to be asked how is this Aſſembly or Common Hall call'd together, alas! he knows no more of that than one in *Utopia*.

Mr. *Thomſon*. My Lord, we have ſeveral other Witneſſes, but we will call no more.

Mr. *Att. Gen.* If you have no more, we will call two or three more.

Mr. *Thomſon*. We have ſome to prove that my Lord *Grey*, came to ſpeak with Sir *William Gulſton*, and went away again, and we deſire to call Sir *Thomas Armſtrong*.

Sir *F. Winnington*. My Lord, if your Lordſhip pleaſes, thus, there will be it ſeems ſome particular defences made. Your Lordſhip hath heard their evidence, and what we have ſaid, we deſire to call two or three Witneſſes to another head. Your Lordſhip hath heard there was ſome rudeneſs by ſome of the people, but who they were it doth not appear. We will call two or three Witneſſes of the behaviour those men and Company that came with my Lord Mayor, that whatſoever diſturbance was made, they were the chief men that made the diſturbance, and my Lord Mayor could not help it, nor we neither.

L. C. J. Sir *Francis*, I believe thoſe men that would not have God ſave the King, my Lord Mayor could not hinder them, but will you undertake to prove that thoſe that came with my Lord Mayor, that they were the men.

Sir *F. Winnington*. They were with them, my Lord.

Mr. *S. Jefferies*. They were with them that cryed God bleſs the Proteſtant Sheriffs.

Mr. *Sibley*. My Lord, I deſire to explain my ſelf to what I ſaid; it is ſeveral years agoe ſince I was Maſter of the Company, I do not remember, but I believe the Summons was directed from my Lord Mayor.

Mr. *Freak*. Mr. *Winſtanley*, what account can you give to my Lord and the Jury.

Mr. *Winſtanley*. I have lived near the Hall, and I often came in, but I was not a Livery man upon that Poll, that was between Mr. *Pilſon* and Sir *Robert Clayton*; the Sheriffs managed it.

Mr. *Freak*. Who managed it?

Mr.

Mr. *Winſtanley*. The Sheriffs.

Mr. *Freak*, Who declared?

Mr. *Winſtanley*. The Sheriffs.

Mr. *Freak*. Did the Mayor come down to declare the Election?

Mr. *Winſtanley*. The Mayor came down after the Poll, but the Sheriffs took the Poll.

Mr. *Freak*. Who was then Mayor?

Mr. *Winſtanley*. Sir *James Edwards* was Sheriff, and Sir *John Smith*.

Mr. *Freak*. Who was Mayor?

Mr. *S. Jefferies*. It was Sir *Samuel Starling*.

Mr. *Freak*. Who put the Queſtion upon the *Huſtings*?

Mr. *Winſtanley*. I can't tell.

Mr. *Freak*. What did you hear the Sheriffs ſay or ſee them do?

Mr. *Winſtanley*. The Sheriffs preſently granted a Poll, and parted one to one door, and the other to t'other.

Mr. *Freak*. And who took the Poll?

Mr. *Winſtanley*. The Sheriffs took it.

Mr. *Freak*. Who declared the Election?

Mr. *Winſtanley*. The Sheriffs.

Mr. *Freak*. Who were Sheriffs then?

Mr. *Winſtanley*. Sir *James Edwards* and Sir *John Smith*.

Mr. *S. Jefferies*. Mr. *Winſtanley*, I would ask you this queſtion, do you take it upon your oath that the Sheriffs declared the Election?

Mr. *Winſtanley*. I declare upon my oath that the Sheriffs took the Poll.

Mr. *S. Jefferies*. Mr. *Winſtanley*, you may gueſs pretty well what I mean by this. Firſt of all, I ask you, did the Sheriffs put the queſtion?

Mr. *Winſtanley*. The Sheriffs took the Poll, Sir.

Mr. *S. Jefferies*. Nay, anſwer my queſtion, did the Sheriffs put the queſtion, or did any body elſe?

Mr. *Winſtanley*. Truly Sir, I have forgot, you were there.

Mr. *S. Jefferies*. I know I was Sir, I know very well, I ask you upon your oath, who was it that declared the Election afterwards? upon your oath.

Mr. *Winſtanley*. Truly, Sir *George*, I don't remember.

Mr. *S. Jefferies*. Mr. *Winſtanley*, one went out at one door you ſay, and t'other went out at t'other, you ſay; now I ſay who took notice, and told the names of thoſe that went out at one door and t'other?

Mr. *Winſtanley*. The two Sheriffs.

Mr. *S. Jefferies*. Who elſe?

Mr. *Winſtanley*. I can't tell.

Mr.

Mr. *Serj. Jefferies.* Do you remember me there at the great Door, when they poll'd and went out, do you remember who told them?

Mr. *Winſtanley.* No truly.

Mr. *S. Jefferies.* Pray, do you remember when one Mr. *Broom* a Wax-chandler was choſen Ale-conner?

Mr. *Winſtanley.* I was in the Hall, but I do not charge my Memory with it.

Mr. *Sol. Gen.* Hark you, Mr. *Winſtanley*, who is it grants the Poll when it is demanded?

Mr. *Winſtanley.* I do remember very well Sr. *George Jefferies* was in the Hall, they demanded a Poll and ſo went out.

Mr. *Sol. Gen.* Who granted it?

Mr. *Winſtanley.* The two Sheriffs.

Mr. *S. Jefferies.* I will put you a Caſe nearer home, Mr. *Winſtanley*, you remember when Sir *Thomas Player* was choſen *Chamberlain*, when the Queſtion was put, Who ſhould be *Chamberlain*, between him and a Gentleman, I ſee not far from me, who do you remember managed the Poll then?

Mr. *Winſtanley.* There was no need Sir *George.*

L. C. J. What do you mean to do with theſe little Witneſſes? you call Witneſſes that know nothing of the matter, or nothing to the purpoſe.

Mr. *S. Jefferies.* My Lord, let me ask him but one Queſtion more, I know he hath been a very great Evidence in this Caſe, I remember when that Gentleman was in for *Bridge-maſter*, Who was the Poll demanded of at that time?

Mr. *Winſtanley.* Truly Sir, I think it was demanded of the Court.

Mr. *S. Jefferies.* Of the Court?

Mr. *Winſt.* Uſually upon other Days my Lord Mayor and the Court come down, but upon *Midſummer-day* they go up.

Mr. *S. Jeff.* But I ask you of whom the Poll was demanded at that time?

Mr. *Winſt.* I Don't remember it I'le aſſure you.

L. C. J. You told us that point would be granted, and you would not ſtand upon it.

Mr. *Williams.* My Lord, where there are ſo many men, there may be many Minds, I would have your Lordſhip and the Jury hear them.

Mr. *Jones.* The Government is concerned, Mr. *Williams.*

Mr. *S. Jeff.* This is not a matter of Mirth I'le aſſure you, it reaches the Government.

Mr. *Williams.* My Lord Mayor hath the power of adjourning the Hall, but not till the Buſineſs is done.

Mr. *Thomſon.* My Lord, I would put you a Caſe *——Sure, Mr. *Jones* I ought to be heard. If my Lord Mayor hath power to call a Common-hall, he hath not to adjourn it before the Buſineſs is done.

* *Here Mr. Jones offered to interrupt him.*

L. C. J. If a Writ come to the Sheriffs to chooſe Parliament men, then the Sheriffs have it, but this is my Lord Mayors Office, he hath power to diſſolve and adjourn.

Mr. *Thomſon.* I ſpeak to this Caſe, my Lord, I will ſhew your Lordſhip an inſtance where it cannot be done. My Lord Mayor hath power to call here, and he hath power to diſſolve, ſay they: My Lord, it cannot be, with ſubmiſſion, in all Caſes. He hath power to call an Aſſembly when

there is a Mayor to be choſen, and the Citizens have a Priviledge to move their Mayor or continue him, now if it were in the power of the Mayor, and there ſhould happen a queſtion who they were for in a great Number of Electors, if it were in his power to adjourn from time to time, he muſt continue Mayor.

L. C. J. It is plain he may do it for all your Objection. You know it was agreed by all ſides that Sir *Samuel Starling* the Lord Mayor, had well diſſolved the Aſſembly, that is, in point of Law, and they could not ſay the Aſſembly was in being, yet afterwards there was an Action brought againſt him, and there they laid how that maliciouſly, and to the intent that he who was choſen into the place of *Bridge-maſter* to which he was duly Elected, ſhould be ſet aſide, he goes and diſſolves the Aſſembly, and denied to grant him a Poll, which they ought to have had, yet for all that the Aſſembly was well diſſolved.

Mr. *S. Jeff.* Conclude, Gentlemen, conclude.

Mr. *Thomſ.* That which I have to ſay is a point of Law.

Mr. *S. Jeff.* Sr. *Francis Winnington*, if you deſign to conclude, I tell you before hand, I would not interrupt you, we will call a VVitneſs or two.

Sir *F. Winnington*, My Lord, becauſe we would make an end, I will call two of thoſe men that came with my Lord Mayor, to ſhew that if there was any rudeneſs, thoſe very People that came with my Lord Mayor were the cauſe of it.

Mr. *Sol. Gen.* That they that came with my Lord Mayor, cauſed them to ſtay after my Lord was gone.

Mr. *Thomſ.* Mr. *Jackſon*, pray can you remember whether any of the Defendants here were concerned in any affront to my Lord Mayor, or who it was that my Lord Mayor received an affront from?

Mr. *Jackſon*, I did obſerve my Lord as he went out of the Hall, I took my Back and ſet it againſt the Croud, and had my Face towards my Lord Mayor, and I was crouded ſo that I could ſcarce ſee my ſelf one way or other, but got off the ſteps at laſt and went home with my Lord Mayor.

Mr. *Thomſ.* Can you ſay who ſtruck off the Hat?

Mr. *Sol. Gen.* VVhere do you live, pray?

Mr. *Jackſ.* I live at *Charing-croſs*.

Mr. *S. Gen.* VVith whom?

Mr. *Jackſ.* VVith my ſelf, Sir.

Sir *F. Winnington.* VVhat is your Name?

Mr. *S. Jeff.* Don't you know the Sword-bearer of *Briſtol*, Sir *Francis*?

Mr. *Thomſ.* Mr. *Roe*, were you here when my Lord Mayor was crouded? VVho offered any affront?

Mr. *Williams.* Pray will you give my Lord and the Jury an account of what you heard, and where the diſorder began.

Mr. *Roe.* My Lord, I was in *Cheapſide*, and I heard a very great noiſe of huzzaing, and a terrible noiſe indeed, and I met with a Fellow running, my Lord, and I ſtopt the Fellow, VVhat is the matter? Nothing ſaid he, but an old Fellow riding *Skimmington* and *Skeleton*, and in the Street I ſaw a matter of an Hundred with their Hats upon Sticks, crying, Damn the *Whiggs*; ſaid I, Gentlemen, VVhat's the Matter, ſaid they, the work is done to ſtop the Poll, and that is all.

L. C. J. Hark you, were you in *Guild-hall*? Mr. *Roe.*

Mr. *Roe.* I followed them a little way down the Street.

L. C. J. Hark you, did you see my Lord Mayors Hat down upon the ground, and was he like to be thrown down, did you see that?

Mr. *Roe.* No, I saw nothing of that, I heard such a noise I was glad I had got rid of them.

Mr. *Williams.* My Lord, we have no more to say in the general, all that I have to say now is for my Lord *Gray.* The evidence against my Lord *Gray* was that he was here, now, my Lord, we have witnesses more particularly to defend my Lord *Gray.*

Mr. *Att. Gen.* We shall call a Witness or two to clear what that Gentleman said when Sir *Robert Clayton* was Mayor.

Mr. *S. Jefferies.* Pray Gentlemen, let us have a little Patience. Pray, my Lord, if your Lordship please — Here is such a horrid noise — Upon all the matter I don't perceive but Sir *Robert Clayton* does himself believe Proclamation was made by him, he does believe the Adjournment was made by him, but as to the Adjournment to *Munday* he is not certain of that. But if your Lordship pleases, we have here both the Sheriffs, Sir *Jonathan Raymond* and Sir *Simon Lewis* that will shew the Court whether there was any such thing.

Mr. *Att. Gen.* Before *Bethel* came out of the North no Sheriff ever pretended to it.

Mr. *S. Jefferies.* Pray Sir *Simon Lewis,* I desire you would satisfie my Lord and the Jury concerning the Adjournment when you went to the Sessions House in the *Old Baily,* Did you order the Adjournment of the Poll, or my Lord Mayor?

Sir *Simon Lewis.* We came and waited upon my Lord Mayor here and told him they demanded a Poll without, we took his directions, and my Lord Mayor did Adjourn the Court by reason that the Assassinators of *Arnold* were to be Tryed, and by reason of that it was Adjourn'd to *Munday,* and my Lord Mayor and the Aldermen went thither, but indeed we were left as Prisoners, and I received a blow on my Breast.

Mr. *Att. Gen.* Sir *Jonathan Raymond,* Did you pretend to have the power then of Adjourning the Court?

Sir *Jon. Raymond.* My Lord did Adjourn the Court because of that Tryal, and then afterwards we went upon our Poll, we were several days upon it, we only appointed from Day to Day till we had made an end, and when we had made an end we declared it to my Lord Mayor and the Court of Aldermen, and my Lord Mayor and the Court of Aldermen came upon the Hustings and declared who it fell upon.

Mr. *Att. Gen.* Sir *James Smith,* when you were Sheriff did you pretend to have any such power?

Mr. *S. Jefferies.* Upon your Oath, Did you pretend to have a power of Adjourning Common Halls?

Sir *J. Smith.* No, Sir we were Sheriffs immediately after Sir *Robert Clayton,* I never heard it Questioned but my Lord Mayor had the right of it.

Sir *F. Winnington.* Sir *Jonathan Raymond,* I think you say the Sheriffs did Adjourn from day to day at that time.

Sir *J. Raymond.* We could not make an end of Polling, and we did appoint from day to day till we had made an end of Polling.

Mr. *Cont.*

Mr. *Com. Serj.* My Lord, I will give your Lordſhip an account of that whole Days proceedings; we came to the Hall, and after Mr. *Recorder*, Sir. *George Jefferies* had attempted to ſpeak to the Hall, for they were in ſuch a tumult they would not ſuffer him to ſpeak, my Lord Mayor withdrew, there was a very great clamour and noiſe, but at laſt the Queſtion was put, and I came up with the Sheriffs hither and acquainted my Lord, that Mr. *Bethel* and Alderman *Corniſh* had the moſt hands, and that there was a Poll demanded between Mr. *Box*, and Mr. *Nicholſon*, and Mr. *Bethel*, and Mr. *Corniſh*, then the diſpute lay as between *Box* and *Nicholſon* and Alderman *Corniſh* and Mr. *Bethel*, I acquainted my Lord Mayor that was, Sir *Robert Clayton*, that Mr. *Recorder* ſaid he would not go down to make Declaration they would not hear him; upon that Sir *Robert Clayton* took a Paper and gave it me, with theſe very words, (it is the greateſt tumult I was ever in in all my life, and I have ſome reaſon to remember it) prethee ſays he, do thou make Declaration to them, for if they will hear any body they will hear thee: Sir, ſays I, becauſe it is not the Duty of my Office I deſire your particular direction; then, ſays he, tell them I muſt Adjourn it till *Munday* becauſe I muſt go to the *Old Baily*, to try the Aſſaſſinats of *Arnold*, whereupon the Hall was Adjourn'd, and in a great tumult, and my Lord Mayor attempting to go out, he was beat back twice or three times, he ſpake ſomething to them, and they went away, leaving me and the Sheriffs upon the Huſtings, and there they kept us Priſoners till ſix or ſeven a Clock at night. On *Munday* when we came to Poll again by his direction, I went to his Houſe and he gave me direction to go with the Sheriffs to Adjourn it, afterwards there was a Court of Aldermen purpoſely call'd, and upon their direction I took the Poll and kept it, and and every Adjournment was made by his particular direction to me.

Sir *R. Clayton.* Gentlemen, I do deſire I may explain my ſelf, becauſe I believe I was imperfectly heard ſome part of the ſtory that Mr. *Common Serjeant* does ſay, I do remember, and will tell you what I do remember of it. I remember the coming up, and I remember that Mr. *Recorder* was not willing to go down there was ſuch a hubbub, I remember that very well. The particular words I ſaid to him I cannot charge my memory with; we had diſcourſe. I remember the Adjournment, and we diſcourſt of the Adjournment below, we made Proclamation, but the noiſe was ſo great they could not hear, and upon my attempting to go out I was beaten back twice or thrice, and then we were fain to let them know the buſineſs we went about as well as we could, and then they let me go, and I left the Sheriffs with them to agree of the manner and methods of Polling. There were ſeveral Adjournments made afterwards, I can't charge my ſelf with it, I might be particularly conſulted, but for the particular times of Adjournment, I did not think my ſelf concerned in point of reputation, if I thought I had been blameable I ſhould have concerned my ſelf to have given more particular directions.

Mr. *Thomſon.* If your Lordſhip pleaſe, I have but this, admitting the right to be in the Lord Mayor——

L. C. J. Do you make a doubt of it now?

Mr. *Thomſon.* Admitting it, thoſe Gentlemen that came to continue the Poll, it is a Queſtion whether they can be guilty of the Riot or not.

Mr. *W.*—There are ſome three or four of the Defendants that have a particular caſe, that ſtands by themſelves, and it reſts upon this point, whether my Lord Mayor hath this power or not. For ſo much of the evidence

dence as concerns any noise or hissing or any thing of that, that relates to the time of Adjournment, for it was done at the time of the Adjournment. As for Mr. *Cornish*, Mr. *Goodenough*, my Lord *Gray* and one or two more, they did not come till within some three hours after that, so that they cannot be engaged in the noise or that.

L. C. J. It is no matter, they came time enough.

Mr. *Williams*, We have done my Lord, with the general evidence, we have something to say in defence of my Lord *Gray*, all the evidence against my Lord *Gray* is this, that he was here about seven a Clock at night. For that, Gentlemen, we say this, that my Lord *Gray* had some business here, and my Lords business was this, my Lord *Gray* was here about the sale of a Mannor in *Essex* with Sir *William Gulston*, my Lord, they had appointed this very Day for that business, it was my Lords interest mightily to pursue it, and Sir *William* happened to be at Sir *Thomas Players*, and knowing this to be an election Day, my Lord dined that Day at an eating House in the *Hay-Market*, and afterwards came to *Peter's* Coffee-House in *Covent-Garden*, and staid there till between four and five a Clock in the Afternoon, when he thought the heat would be over, and then he came to make inquiry after Sir *William*, and took up in *Bruens* Coffee-House about five or six a Clock, there he continued quiet in the House till all the noise was over, then he sent to inquire for Sir *Will. Gulston* and hearing he was at Sir *Thomas Player's*, he and Sir *William* went to a Tavern and there they treated and finished the affair. My Lord we will prove it; call Mr. *Ireton*.

Mr. *Ireton*, My Lord, I know that at this very time my Lord *Gray* was treating with Sir *Will. Gulston* about the Mannor of *Corsfield* in *Essex*, and my Lord *Gray* and Sir *Will. Gulston* had appointed to meet that night at t'other end of the Town, if the Poll were ended. In the evening I met my Lord *Gray* who told me he had been with Sir *Will. Gulston* in *London* and had dispatched the business.

L. C. J. Did my Lord tell you so?

Lord *Gray*. He treated for me, my Lord, with him.

L. C. J. Pray for Gods sake, you must lay your matter a little closer together, if he was to treat about the purchase of a Mannor, Was there no convenient place for company to treat about it but while they were casting up the Poll-Books with the Sheriffs and *Goodenough*? Was that place fit?

Mr. *Holt*. My Lord had appointed to speak with Sir *Will. Gulston* that day in *Covent-Garden* if the Poll had been over, but not finding him there came into the City.

Lord *Gray*. That Gentleman went between Sir *Will. Gulston* and I.

L. C. J. Where were you to meet?

Lord *Gray*. At the Rose Tavern in *Covent-Garden*.

L. C. J. What made you here then?

Lord *Gray*. Not finding him there I came hither, and spake with Sir *Will. Gulston* in that very Room. The Poll was over and the Company gone.

Mr. *Williams*. Mr. *Ireton*, Do you know there was any treaty between my Lord *Gray* and Sir *Will. Gulston* about the sale of any Land?

Mr. *Ireton*. Yes, Sir I do.

Mr. *Williams*. When was that treaty?

Mr. *Ireton*. About a Twelve-month since.

Mr. *Williams*. Do you know they had any discourse about it?

Mr. *Ireton*. Sir they had, I think it was *Midsummer-day*, the day the Election of Sheriffs was.

Mr. *Williams*. Were they about that treaty that day?

Mr. *Ireton*. That day, my Lord.

Mr. *Williams*. Where was the treaty?

Mr. *Ireton*. In Sir *Thomas Player*'s House.

Mr. *Williams*. What time of the day?

Mr. *Ireton*. About Twelve a Clock.

Mr. *Williams*. Where went my Lord afterwards?

Mr. *Ireton*. My Lord went to Dinner, as he told me, in the *Hay-Market*.

Mr. *Williams*. Did you know of any appointment to meet again?

Mr. *Ireton*. I was Informed so, but cannot positively tell.

Mr. *Williams*. Sir *Thomas Armstrong*, Pray Sir will you give an account where my Lord was that day?

Sir *T. Armstrong*. I came up this way about six a Clock and was in a Coffee-House by *Guild-Hall*.

Mr. *Williams*. Do you know any thing about that treaty?

Sir *T. Armstrong*. I saw them together that Night. I saw them together at Sir *Thomas Player*'s about Twelve a Clock, and again at Eight.

Mr. *Williams*. Do you know any thing of treating about this Land in *Essex*.

Sir *T. Armstrong*. No, I do not.

Mr. *Att. Gen.* You did not see them in the Chamber?

Sir *T. Armstrong*. Does any body say I did.

Lord *Gray*. My Lord, I will give you an account of it.

Mr. *Williams*. My Lord, Mr. *Ireton* tells you this, my Lord *Gray* and Sir *Will. Gulston*. were in treaty about buying these Lands that very Morning together, says Sir *Thomas Armstrong* about Noon, afterwards my Lord went to the *Hay-Market* and staid there till evening, and my Lord and Sir *Will.* were together again at Night. My Lord, this case will depend upon your Lordships directions. It is very plain that my Lord Mayor of *London* hath the summoning the Common-Hall and when the business is done he hath the dischanging them. My Lord, if it be true what Mr. *Love* and others say, they tell you that in all their time, their opinion is so, that it belonged to the Sheriffs and not to the Lord Mayor, what may be the consequence lies in your Lordships opinion. Now for the consequence of it, if it were no more than a matter of opinion and right, and the Sheriffs insist upon it, Are these Defendants and the Sheriffs guilty of these outrages? For there is nothing proved upon them. This don't make them guilty of any thing more than a bare continuing the Poll. Therefore, my Lord, I must submit to your direction how far the Jury will find us or any of us guilty of a Riot in this case.

Sir *H. Wern*. My Lord, we agree they did continue the Poll, and the Defendants did apprehend it was lawful for them so to do, if the Jury should think they did misapprehend what was the ancient usage of the City, if your Lordship should be of Opinion that by Law the Lord Mayor ought so to do it, yet I do say, it being so probable a Case, their insisting upon it will not make it a Riot: Your Lordship will be pleased I hope to take notice of it, if they find the Mayor hath power to adjourn it.

Mr. *Wallop.* I humbly conceive, that the Information does in truth destroy it self, for it is agreed on all hands as the Information sets forth, that they came together upon very lawful occasions, and the Information sets forth that by colour of their Office they did as if they were lawfully assembled. Now my Lord, they have overthrown the Definition of a Riot, for a Riot is when three or more do come together to do an unlawful act, and they do it. So that it is a very hard matter to make this a Riot.

L. C. J. Does not this matter appear upon Record?

Mr. *Holt.* No, no, my Lord, it don't.

Mr. *Wallop.* If men do lawfully meet together, if by chance they fall together by the Ears, and commit many misdemeanours, this can never be a Riot. But say they here was an adjournment, a command by my Lord Mayor to adjourn the Court, and they continue after adjournment: Now, my Lord, the Question is whether he had power to adjourn it or no, the Citizens did insist upon it that he had no power. Now, Gentlemen of the Jury, if you find in your conscience that the Citizens had a probable cause and they insist upon it, this can never be a Riot.

Mr. *Holt.* It doth appear that they were lawfully assembled together. And for the throwing off my Lord Mayor's Hat, suppose that my Lord Mayor hath a power for to adjourn the Court, yet, my Lord, it must be agreed, that those that come thither must have a convenient time to depart, for my Lord Mayor as soon as ever he had adjourn'd the Court he went away, and all the Hall could not go of a sudden, but must have a convenient time to go, some followed him immediately, and the other Gentlemen that staid behind, not at all consenting to that rude action about my Lord Mayor, cannot be guilty, for there is no proof of any miscarriage committed by any of these Defendants, it may be there was some Discourse concerning the power of my Lord Mayor. I only mind your Lordship of Sir *Robert Atkins* Case, a late Case in the *Kings-bench*, there can be no Assembly to choose an *Alderman* as in that Case unless the Mayor was there, the Assembly was held, and yet, Gentlemen, because it was not done in a tumultuous manner, but with a good intent, it was held that Sir *Robert Atkins* was not guilty of a Riot. There must be an evil intention to do some mischief.

Mr. — *Turner* brought his Action against Sir *Samuel Starling* for dissolving the Hall; And my Lord that being in the Case of the Election of a *Bridgemaster*, surely there is a Parallel Reason for the Sheriffs.

L. C. J. That Case is against them.

Mr. — No, my Lord.

L. C. J. There the Lord Mayor had a power by Law to dissolve the Assembly, tho in truth he should not have done it.

Mr. *Sol. Gen.* The Action was brought for denying a Poll, my Lord.

Mr. *Thomf.* It is laid in that Declaration, that it is the Custom of the City, that my Lord Mayor cannot dissolve.

Mr. *Att. Gen.* May it please your Lordship and you Gentlemen of the Jury, you have now heard all the Evidence [illegible]

L. C. J. Gentlemen, you shall not over-rule me so because I am willing to hear every body therefore you impose upon me. You shall have Law by the Grace of God as far as I am able.

Mr. *Att. Gen.* We have now done with the Evidence on both sides, and you do now see the right of the Lord Mayor, notwithstanding all the vulgar and popular Discourses, is asserted, it appears now upon full Evidence, they themselves

themſelves do not contradict it, that my Lord Mayor is the Supreme Magiſtrate of this City, both for calling all your Aſſemblies and for diſſolving them, they won't pretend againſt this, but indeed they make a Queſtion whether my Lord Mayor can adjourn or no. Neceſſity of Affairs requires it ſometimes, if there be ſuch a Tumult, ſuch an interruption, that they cannot proceed orderly, or if the matter be ſo long that they can't determine it in one Day, there is a neceſſity that there muſt be an adjournment to another time, and they give you no inſtances, Gentlemen, that ever the Sheriffs in any Age did attempt it, never any Sheriff made an adjournment of his own accord. Mr. *Love* he gives no inſtance of an adjournment, he only tells you of his Supremacy at that time when my Lord Mayor had nothing to do with it, and Gentlemen, at that time you muſt remember when he was Elected, the Law was otherwiſe when Mr. *Love* was elected, then the Sheriffs were the Tribunes of the People, and they had ſhut my Lord Mayor quite out of their *Common-hall*, and declared that he had no power to diſſolve or adjourn them. The next inſtance is that of Sir *Robert Claytons*, and how do they make that out? Sir *Robert Clayton* ſwears only upon his Memory, and what is that? he remembers juſt nothing. He does think the common Serjeant does ſpeak Truth in ſome things, but he can't remember other things. But we prove not only an Adjournment from *Saturday* to *Monday*, but other adjournments by ſpecial direction from Sr *Robert Clayton*. So that whatever Mr. *Love* did fancy of the Authority of Sheriffs, to tell my Lord Mayor he had nothing to do therewith, yet that my Lord Mayor certainly is the chief Magiſtrate, we have proved all along to this preſent time, till within theſe Two or Three years, and when ever there was an adjournment we have proved it to you that it was by my Lord Mayor. So that it is nothing like the Caſe, put by the Gentlemen on the other ſide, there was never any ſhadow of pretence for right. Whoever knows *London* muſt know the Sheriffs of *London* are not Officers of this Corporation as Sheriffs, but they are the Kings Officers of the County granted to be choſen by the Citizens: They are in their particular Caſes Judges, for chooſing Parliament men, but in no Corporation Act whatſoever: So that Gentlemen, you ſee there is no pretence for that: But admit there were, what is it like the Caſe when a Man laies claim to a Wood and he ſends Three or Four Perſons, or half a Dozen Perſons to cut it down? yet, Mr. *Wallop*, notwithſtanding your Authority, tho that be not a Riot, it is a Rout, where you will ſend ſuch a Number to raiſe terrour in the Kings People, and they will continue together after they are commanded to depart by a Magiſtrate. But it is a different thing where men will concern themſelves in a matter of publick Government, as if any Man ſhould pretend he hath the Kings Commiſſion to take your Lordſhip off the Bench.

So that here is quite a different thing, this relates immediately to the Government, here's the publick Peace of the City is in danger, and if my Lord Mayor had been a Perſon of great Spirit, and had preſently raiſed others to have ſuppreſt this Riot, then the City had been in a fine Condition, by theſe People that would have no *God bleſs the King*, but God bleſs the Sheriffs. There is no pretence of right can juſtifie ſuch a thing. Now, my Lord, for a Riot, this muſt be acknowledged to be, for many to meet together to do an unlawful thing is a Riot.

Mr. Wallop. And do it.

Mr. Att. Gen. And do it, I put in that too Sir? The meeting here is lawful

lawful, and it is as certain that my Lord Mayor hath power to Adjourn, that is a conſequence of Law, if the Adjournment be neceſſary, and he is the only Judge of Adjournment, and when he hath Adjourn'd, I do ſay the continuing Perſons together to do that, which if they had ſummon'd them to do had been unlawful, is as much an unlawful thing and a Riot as that. I would fain know if the Sheriffs had ſummon'd all the Citizens together to meet to chooſe Sheriffs, or any others, would any man Queſtion but this is an unlawful Act, a ſubverſion of the ancient Government of the City, the Uſurping an Authority in the City contrary to the Kings Grant and the Charter. And after they are Adjourn'd, if they will make Proclamation and order the People to ſtay and go on with the Poll, is not that the ſame thing in point of Law? Surely no man almoſt of common ſenſe but will ſay it is the ſame thing. In the caſe that *Mr. Wallop* puts, if there be any diſorders committed precedent to the Magiſtrates diſolving the Society; that will not amount to a Riot, but if the Magiſtrate comes and makes Proclamation for them to depart and they ſtay after, it makes a Riot, if they continue ſtill together, it is rout and an unlawful aſſembly. But they ſay there is no Proof that theſe Gentlemen that are in the Information are guilty of the Riot; they are all parties to the Riot, the very being there and giving countenance to it is an unlawful thing. Pray Gentlemen, If Ten men ſhould go to rob a Houſe, and one ſtands off at a diſtance, is not the Tenth man guilty of the burglary? If there be a many perſons together, and Three only do an unlawful Act, and the others give protection, for number is always a protection, are not all theſe Gentlemen guilty? And therefore, Gentlemen, it is hoped you will ſettle the City by deſtroying this pretence, which hath been fluttering in the Air, but hath no ground for it.

L. C. J. Gentlemen of the Jury, this is an Information againſt ſeveral for a Riot, and it ſets forth that there was a Common-Hall that was call'd by the Lord Mayor for chooſing ſeveral Officers, and that afterwards the Lord Mayor did diſſolve that Aſſembly, and yet notwithſtanding the Defendants, (ſo many as by and by I ſhall name to you that they have given evidence againſt,) they kept together and committed a Riot, it is ſaid ſo particularly in the Information. For the matter in fact that hath been altercated between them, the Queſtion is, whether the Lord Mayor for the time being hath power in himſelf to call an Aſſembly and to diſſolve it, and truly as to this point, even the Counſel for the Defendants, did one while grant it, but another while did bring Witneſs that did know nothing of the matter, I muſt needs ſay. But for ought I ſee, even until this very time, the Lord Mayor did call the Aſſembly, and he did Diſſolve it, and that they did ſeem to grant even at the beginning of the cauſe. But then they make a diſtinction, but he could not Adjourn it to a certain time. That was a very weak thing, to ſay, that if the Lord Mayor may call and diſſolve the Hall, that he cannot Adjourn it to a convenient hour. Suppoſe now the buſineſs to be done was not diſpatched ſooner than this time a Night, ſo that upon the matter they muſt be either Adjourn'd till to Morrow or kept in the Hall all Night, does any man think that that Magiſtrate that hath power to call and diſſolve, hath not power to Adjourn? There is no Man doubts of it in Fact or Law, and that it was ſo, Sir *Robert Clayton* did that very thing; if there had been no precedent it had

been all one. But they make a great deal of business of it, how that the Sheriffs were the men and that the Lord Mayor was no body, and that shews it was somewhat of the Common-wealths seed that was like to grow up among the good Corn.

Here the People hum'd and interrupted my Lord.

Pray Gentlemen, that is a very indecent thing, you put an indignity upon the King, for you ought not to do it if you knew your Duty, pray Gentlemen, forbear it, it does not become a Court of Justice.

I will tell you, when things were topsie-turvie I can't tell what was done, and I would be loth to have it raked up now. They might as well (as I perceive they have at another time said) have said, that the power of Dissolving and Adjourning might have been in the Livery-men, all People, every body, and so then if they had been together by the Ears, I don't know who must have parted them, that is the truth of it. But I think their own Council are very well satisfied both in Fact and Law, that the Lord Mayor for the time being, hath this power of Calling and Dissolving and Adjourning the Assembly. Then there is another thing that is to be considered, and that is this, the Defendants they say, we did mistake the Law, it was only a mistake of the Law and nothing else, and we did do all to a good intent, and therefore it must not be a Riot. To give you some satisfaction in that, First, I must tell you that a man must not excuse himself of a crime by saying he was Ignorant of the Law, for if so be that turn to an excuse, it is impossible to convict any man, if so be he must be excused because he did not know the Law, then no man will be found guilty. But if it appear that the Defendants did verily believe that the Law was for them that may be considered in another place, if so be that they were really Ignorant, the fine, it may be, may be the less, but it won't excuse them from all. But truly, in the next place, you must consider, whether or no these Gentlemen were Ignorant, or whether or no they did not in a tumultuary way make a Riot to set up a Magistracy by the power of the People. For I must tell you, I have not heard by the Defendants and I will appeal to your memory, I have not heard before this time that ever the Sheriffs did quarrel with the Mayor, or continue a Common-Hall after the Mayor had Adjourn'd it. As for these Gentlemen they could not be Ignorant of it, because the daily practice before their Eyes was for the Mayor to do it. But this was a new notion got into their heads, tho it was otherwise before it must be so now, and one said, they would have no Tory Mayor to be Mayor, thus the King should have something to do to support the Mayor by his power for ought I know. Now Gentlemen, for the parties that are accused to be in it, there is *T. Pilkington*, *Samuel Shute*, *Henry Cornish*, Lord *Gray*, Sir *Thomas Player*, *Slingsby Bethel*, *Francis Jenks*, *John Deagle*, *Richard Freeman*, *Richard Goodenough*, *Robert Key*, *John Wickham*, *Samuel Swinnock* and *John Jekyl* the Elder, some Witnesses are to some, and others to others, but some of them have seven or eight Witnesses. There is *Pilkington* and *Shute* and *Cornish*, these had a great many Witnesses against them, others have two. First, for the Sheriffs and Mr. *Cornish* that had been Sheriff but two years before, they kept them together after my Lord Mayor was gone, and to see what People they were, No, not God bless the King, no, no, but the Protestant Sheriffs; so that in truth the King must be put out of his Throne, to put

these two Sheriffs in it. It is not proved that either of these did say so, nor the others neither, but they were those that clung to them, and they would help them, and they would set them to rights, and I know not what, and there is no other way to know in this case what they were, but by these they kept company with, and it may be, I would be loath to say ill, it may be it was in order to Dethrone the King as far as they could; for my Lord Mayor, when truly he had Adjourn'd the Hall and was going home he had like to be trod under foot himself, his Hat was down, and that was the great respect they gave to his Majesties Lieutenant in the City. It is true it cannot be said who it was, but those were the People that would have no God save the King, and those the Mayor had nothing to do with. The Sheriffs they would go on to Poll, and cast up their Books and would make a disquisition who had most hands and the like, three hours after my Lord Mayor was gone, there were so many that did countenance and foment this sort of proceedings. There is a shrewd Act that was made since his Majesty came in, that the villany of some men might be stopt, thirteenth, fourteenth of the King, that for words in some cases makes High Treasons, it is well his Majesty does not take any severe prosecution, but I can't tell you, I would not have men presume upon it. It can't be said you or you said so, yet they kept them together, they were they that kept all this Rabble three hours together; the Lord-Mayor does Adjourn the Court, and they must have some time to be gone, and thereupon would perswade us they could not get away in three hours, they ask for a Poll, and cast up the scrutiny, and I know not what. There are some, and that is my Lord *Gray* and Mr. *Goodenough*, how these two should come there I know not, they had nothing to do here, and therefore I doubt it will be worse upon them than upon the rest, for they had nothing to do here, they must come to set the Citizens together by the ears. My Lord *Gray*, he says, and hath called some Witnesses, that he had business with Sir *Will. Gulston*, about the sale of *Corsfield* in *Essex*, but I do not see any of his Witnesses that do say he came to speak with Sir *Will. Gulston* here, he came here to see how the Poll went. But, look you Gentlemen, he hath given some sort of evidence, and the Council did open it very fairly, but the evidence did not come fully. If you think he did only come upon real occasions to Sir *Will. Gulston*, only to speak to him about that business, and concern'd himself no otherwise, then you will do well to find him not guilty, if you do not, you must find him likewise as well as the rest, for *Goodenough* he was here to promote the matter. There is one and truly he said, that for his part, as the rest would have no God bless the King, so truly he would have no Tory Mayor. And all this Flame I must tell you took Fire from this Spark, that the Sheriffs might do what they thought fit about chooseing Officers. Gentlemen, It hath been a long Tryal, and it may be I have not taken it well, my memory is bad and I am but weak, I don't Question but your memories are better than mine, consider your verdict and find so many as you shall think fit.

The

The Jury withdrew and in some time returned.

Are you all agreed of your Verdict?

Jury. Yes.

Who shall speak for you?

Jury. The Foreman.

Do you find the Defendants guilty of the Trespass and Ride, &c?

Foreman. We find them all guilty in that Paper.

This is your Verdict?

Jury. Yes.

T. Pilkington, S. Shute, H. Cornish, Lord Gray, Sir Thomas Player, S. Bethel, F. Jewks, J. Deagle, R. Freeman, R. Goodenough, R. Key, J. Wickham, S. Swinnock, and John Jekyl the Elder are guilty.

You say they are all guilty, &c.

Jury. Yes.

FINIS.

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